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THE  
75  
CONSTITUTION  
OF THE  
STATE OF MARYLAND.

REPORTED AND ADOPTED BY THE CONVENTION OF DELEGATES ASSEMBLED  
AT THE CITY OF ANNAPOLIS, APRIL 27TH, 1864, AND SUBMITTED  
TO AND RATIFIED BY THE PEOPLE ON THE 12TH  
AND 13TH DAYS OF OCTOBER, 1864.

WITH  
MARGINAL NOTES AND REFERENCES

To Acts of the General Assembly and Decisions of the Court of Appeals,

AND AN APPENDIX AND INDEX,

By EDWARD OTIS HINKLEY, Esq., of the *Baltimore Bar*



ANNAPOLIS:  
RICHARD P. BAYLY.  
1865.

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ENTERED, according to the Act of Congress, in the year 1864,

in the Clerk's Office of the District Court of Maryland.

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*State of Maryland, Sec.*

I, GEORGE EARLE, Clerk of the Court of Appeals of Maryland, do hereby certify that the annexed is a correct copy of the Declaration of Rights and Constitution of Maryland, deposited in the Office of said Court.



*In Testimony Whereof, I hereto subscribe my name as Clerk, and affix the Seal of the said Court of Appeals, this second day of December, in the year of our Lord one thousand eight hundred and sixty-four.*

GEORGE EARLE, CLERK,  
*of the Court of Appeals, Maryland.*



## PREFACE.

THIS Edition of the Declaration of Rights and Constitution of Maryland, has marginal notes referring to the Acts of Assembly, to 1864, inclusive, and to the Decisions of the Court of Appeals, to 19th Md. Reports, inclusive ; and a very full Index.

There is appended a brief commentary on the principal changes in the Form of Government of the State, made by the adoption of this Constitution ; and prefixed a List of Members of the Convention which framed it, and the Proclamation of the Governor declaring its adoption by the People.

The Publishers believe that they have, by these additions, rendered the work as complete as possible, and hope that it may be found acceptable and useful to all the Officers, as well as to the People of the State.

# Maryland State Convention.

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CHAMBER OF THE HOUSE OF DELEGATES,

*April 27th, 1864.*

At the hour of 12 o'clock, M., on motion of Mr. HOPEWELL HEBB, of Allegany County, the Convention was called to order, and HENRY STOCKBRIDGE, Esq., of Baltimore City, was elected Chairman, *pro tempore*.

On motion of Mr. FREDERICK SCHLEY, of Frederick county, Mr. JOSEPH B. PUGH, of Cecil county, was elected Secretary, *pro tempore*.

On motion of Mr. STIRLING, an order was passed authorizing the Chairman to appoint a Committee of five to wait on the Governor, and obtain a list of Delegates chosen to this Convention.

The Chair named Messrs. A. STIRLING, Jr., of Baltimore city, J. S. BERRY, of Baltimore county, DANIEL CLARKE, of Prince George's county, ALBERT C. GREENE, of Allegany county and WILLIAM T. PURNELL, of Worcester county, as the Committee.

Mr. STIRLING, Chairman of the Committee, reported that they had performed the duty required of them, and that the Governor would send a message to the Convention.

Whereupon, the following message was received by the Convention from the Governor, through the hands of CHAPMAN HARWOOD, Esq.

EXECUTIVE DEPARTMENT,

*Annapolis, April 27th, 1864.*

*To the Convention:*

GENTLEMEN:—In compliance with the request contained in your order of this day, I have the honor herewith to transmit a list of the members of the Convention elected on the 6th inst., as appears by the returns of the Judges of Election on file in this Department. The words "sworn" or "affirmed" prefixed to some of the names on said list, indicate those who have taken and subscribed the oath required to be administered to members of said Convention by the Act authorizing it.

A. W. BRADFORD.

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LIST OF THE MEMBERS  
OF THE  
Constitutional Convention of the State of Maryland,  
*Assembled at Annapolis, April 27th, 1864.*

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*Saint Mary's County.*

CHAPMAN BILLINGSLEY,  
JOHN F. DENT,  
GEORGE W. MORGAN.

*Kent County.*

EZEKIEL F. CHAMBERS,  
DAVID C. BLACKISTON,  
GEORGE S. HOLLYDAY.

*Anne Arundel County.*

WILLIAM B. BOYD  
ELIE J. HENKLE,  
OLIVER MILLER,  
SPRIGG HARWOOD.

*Calvert County.*

JAMES T. BRISCOE,  
JOHN TURNER,  
CHARLES S. PARRAN.

*Charles County.*

JOHN W. MITCHELL,  
RICHARD H. EDELEN,  
PEREGRINE DAVIS.

*Baltimore County.*

JOHN S. BERRY,  
JAMES L. RIDGELY,  
WILLIAM H. HOFFMAN,  
EDWIN L. PARKER,  
DAVID KING,  
WILLIAM H. MACE,  
SILAS LARSH.

*Talbot County.*

HENRY H. GOLDSBOROUGH,  
JAMES VALLIANT,  
JOHN F. MULLIKIN.

*Somerset County.*

ISAAC D. JONES,  
JAMES U. DENNIS,  
WILLIAM H. GALE,  
ANDREW J. CRAWFORD,  
JOHN C. HORSEY.

*Dorchester County.*

THOMAS J. HODSON,  
ALWARD JOHNSON,  
WASHINGTON A. SMITH,  
THOMAS J. DAIL.

*Cecil County.*

THOMAS P. JONES,  
GEORGE EARLE,  
JOSEPH B. PUGH,  
DAVID SCOTT.

*Prince George's County.*

DANIEL CLARKE,  
SAMUEL H. BERRY,  
EDWARD W. BELT,  
FENDALL MARBURY.

*Queen Anne's County.*

JOHN LEE,  
PERE WILMER,  
JOHN BROWN.

*Worcester County.*

WILLIAM T. PURNELL,  
 THOMAS B. SMITH,  
 WILLIAM H. W. FARROW,  
 FRANCIS T. MURRAY.

*Fredrick County.*

SAMUEL KEEFER,  
 FREDERICK SCHLEY,  
 DAVID J. MARKEY,  
 ANDREW ANNAN,  
 HENRY BAKER,  
 B. A. CUNNINGHAM,  
 PETER G. SCHLOSSER.

*Harford County.*

JOHN A. HOPPER,  
 WILLIAM GALLOWAY,  
 GEORGE M. MCCOMAS,  
 THOMAS RUSSELL.

*Caroline County.*

ROBERT W. TODD,  
 JAMES D. CARTER,  
 TWIFORD S. NOBLE.

*Baltimore City.*

SAMUEL T. HATCH,  
 JOSEPH H. AUDOUN,  
 HENRY STOCKBRIDGE  
 WILLIAM BROOKS,  
 JOHN BARRON,  
 JOSEPH M. CUSHING,  
 JOHN L. THOMAS, JR.,  
 BALTIS H. KENNARD,  
 EDWIN ABBOTT,  
 ARCHIBALD STIRLING, JR.,  
 WILLIAM DANIEL.

*Washington County.*

PETER NEGLEY,  
 HENRY W. DELLINGER,  
 JAMES P. MAYHUGH,  
 JOHN R. SNEARY,  
 LEWIS B. NYMAN,  
 JOSEPH F. DAVIS.

*Montgomery County.*

EDMUND P. DUVAL,  
 THOMAS LANSDALE,  
 GEORGE PETER.

*Allegany County.*

ALBERT C. GREENE,  
 HOPEWELL HEBB,  
 JASPER ROBINETTE,  
 GEORGE A. THRUSTON,  
 JACOB WICKARD.

*Carroll County.*

JOHN E. SMITH,  
 JONAS ECKER,  
 JOHN SWOPE,  
 WILLIAM S. WOODEN.

*Howard County.*

JOEL HOPKINS,  
 GEORGE W. SANDS,  
 JAMES SYKES.

## Officers of the Convention.

*President*..... HON. HENRY H. GOLDSBOROUGH, of Talbot Co.  
*Secretary*..... WILLIAM R. COLE, of Baltimore City.  
*Assistant Secretary*..... JOHN H. SHAW, of Allegany Co.  
*Sergeant-at-Arms*..... ALFRED D. EVANS, of Baltimore City.  
*Committee Clerks*..... WILLIAM R. McCULLEY,      THOMAS TIPTON,  
    GEORGE JOHNSON,      S. C. GORRELL.  
*Revising Clerk*..... JOHN MCGARIGLE.  
*Door-Keepers*..... MOSES ANDERS and CHARLES WHITTEMORE.  
*Reporter*..... WILLIAM BLAIR LORD.  
*Assistant Reporter*..... HENRY M. PARKHURST.

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## Standing Committees of the State Convention.

### *Committee on Declaration of Rights:*

Messrs. Stirling,	Hebb,	Purnell,	Todd,
Belt,	Chambers,	Morgan.	

### *Committee on Executive Department:*

Messrs. Greene,	Mulliken,	Smith, of Worcester,	Schley,
Billingsley,	Miller,	Parran.	

### *Committee on Basis of Representation:*

Messrs. Abbott,	Hatch,	Negley,	Pugh,
Berry, of Prince George's,		Edelen,	Smith, of Dorchester,
Greene,		Carter.	

### *Committee on Legislative Department.*

Messrs. Schley,	Thruston,	Kennard,	Berry, of Balt. Co.
Hollyday,	Gale,	Turner,	Stirling,
Mulliken.			

### *Committee on Judiciary Department:*

Messrs. Stockbridge,	Hoffman,	Sands,	Earle,
Chambers,	Jones, of Somerset,		Clarke,
Thruston.	Daniel.		

### *Committee on State's Attorneys:*

Messrs. Smith, of Carroll,	Thomas,	Mayhugh,	Daniel,
Briscoe,	Wilmer,	Harwood.	

## STANDING COMMITTEES.

*Committee on Treasury Department:*

Messrs. Negley, Dail,	Brooks, Dennis,	Cushing, Mitchell.	Markey,
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*Committee on the Elective Franchise and Qualification of Voters:*

Messrs. Sands, Scott, Noble,	Smith, of Worcester, Marbury, Russell.	Brown,	Eeker, Horsey,
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*Committee on Militia and Military Affairs:*

Messrs. Berry, of Balto. Co. Dellinger,	Thruston, Peter,	Barron, Blackiston.	Pugh,
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*Committee on Education and the Encouragement of Literature:*

Messrs. Cushing, Ridgely,	Cunningham, Henkle.	Jones, of Cecil, Hodson.	Greene,
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*Committee on the Rights, Duties, Divisions and Sub-Divisions of Counties:*

Messrs. Hebb, Sykes,	Robinette, Duvall,	Swope, Dent.	Carter,
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*Committee on such Provisions and Ordinances as may be desirable to carry into effect Amendments to the Constitution:*

Messrs. Ridgely, Crawford,	Schlosser, Stone,	Hopper, Lansdale.	Hopkins,
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*Committee to report future Amendments and Revisions of the Constitution:*

Messrs. Todd, McComas,	Mace, Johnson,	Noble, Lee.	Annan,
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*Committee on Accounts:*

Messrs. Galloway,	Parker,	Wooden,	Baker,	Russell.
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*Committee on Reporting and Printing:*

Messrs. Valliant,	Audon,	Farrow,	Wickard,	Sneary.
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*Committee on Engrossment and Revision:*

Messrs. Earle,	Nyman,	King,	Murray,	Dail.
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*Committee on Elections:*

Messrs. Purnell, Dent,	Davis, Bond,	Larsh, Brown.	Keefer.
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*Committee on the Appointment, Tenure of Office, Duties and Compensation of all Civil Officers not embraced in the duties of other Standing Committees:*

Messrs. Clarke, Baker,	Billingsley, Purnell,	Thruston, Davis.	Daniel,
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*Committee on Interest and Usury:*

Messrs. Belt,	Stockbridge,	Schley,	Billingsley,	Todd
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## PROCLAMATION BY THE GOVERNOR.

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### STATE OF MARYLAND, *Executive Department.*

*Whereas*, By an Act of the General Assembly of Maryland, passed at January Session, in the year eighteen hundred and sixty-four, entitled "An Act to provide for the taking of the sense of the people upon the call of a Convention to frame a new Constitution and Form of Government for this State, to provide for an election of Delegates to said Convention, and the assembling thereof," it is provided that the Constitution and Form of Government adopted by the said Convention, as aforesaid, "shall be submitted to the legal and qualified voters of the State, for their adoption or rejection, at such time, in such manner, and subject to such rules and regulations as said Convention may prescribe."

*And Whereas*, It is further provided by said Act, "that when the Governor shall receive the returns of the number of ballots cast in this State for the adoption or rejection of the Constitution submitted by the Convention to the people, if, upon counting and casting up the returns as made to him, as herein before prescribed, it shall appear that a majority of the legal votes cast at said election are in favor of the adoption of the said Constitution, he shall issue his proclamation to the people of the State declaring the fact, and he shall take such steps as shall be required by the said Constitution to carry the same into full operation, and to supersede the old Constitution of this State."

*And Whereas*, In pursuance of said Act and of a vote of a majority of the people of the State, taken in conformity to its provisions, and in favor of the assembling of said Convention, that body did convene at the city of Annapolis, on the day appointed by said Act, and did on the sixth day of September last adopt a new Constitution and Form of Government, and did therein direct that the same should be submitted for the adoption or rejection of the people of the State at an election to be held in the several counties of the State and the city of Baltimore for that purpose, at a certain time therein specified; and did also therein provide that an election should be held likewise for a similar purpose "in each Company of every Maryland Regiment in the service of the United States or of this State."

*And Whereas*, By said Constitution it was further provided that the Governor, upon receiving the result of said elections, and ascertaining the aggregate vote throughout the State, including the soldiers' vote aforesaid, should by his proclamation make known the same, and if a majority of the votes cast should

be for the adoption of said Constitution it should go into effect on the first day of November, eighteen hundred and sixty-four.

*And Whereas,* The elections as provided for were held in the said counties of the State and the city of Baltimore, and in the said military companies in the service of the United States.

*And Whereas,* The results of the said elections have been duly certified to me by the proper judges of the said several elections, and upon accurately counting and casting up the votes so returned to me for and against the said Constitution, including the soldiers' vote aforesaid, it doth appear that there were 39,174 ballots for the Constitution, 29,799 ballots against the Constitution, and that there were 61 blank ballots, and that there were thirty-three ballots reported as given against the Constitution, but not counted, the persons offering them refusing to take the oath required by said Constitution; and there being therefore, of the aggregate vote so cast, a majority in favor of the adoption of said Constitution—

Now, therefore, I, AUGUSTUS W. BRADFORD, Governor of the State of Maryland, in pursuance of the authority so vested in me by the said Act of Assembly and the Constitution aforesaid, do, by this my proclamation, declare and make known that the said Constitution and Form of Government so framed and adopted by the Convention aforesaid, has been adopted by a majority of the voters of the State, and that, in pursuance of the provision therein contained, the same will go into effect as the proper Constitution and Form of Government of this State, superseding the one now existing, on the first day of November next.



GIVEN under my hand and the great seal of the State of Maryland, at the city of Annapolis, on the 29th day of October, in the year of our Lord eighteen hundred and sixty-four.

A. W. BRADFORD.

By the Governor:

WM. B. HILL, *Secretary of State.*



# Constitution of Maryland,

ADOPTED IN CONVENTION,

*Which Assembled at the City of Annapolis, on the Twenty-seventh Day of April, Eighteen Hundred and Sixty-four, and Adjourned on the Sixth Day of September, Eighteen Hundred and Sixty-four.*

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## DECLARATION OF RIGHTS.

WE, the people of the State of Maryland, grateful to Almighty God  
for our civil and religious liberty, and taking into our serious consideration the best means of establishing a good Constitution in this State, for the sure foundation and more permanent security thereof, declare:

ARTICLE 1. That we hold it to be self-evident that all men are created equally free; that they are endowed by their Creator with certain unalienable rights, among which are life, liberty, the enjoyment of the proceeds of their own labor and the pursuit of happiness. Inalienable rights.

ART. 2. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole; and they have at all times, the unalienable right to alter, reform, or abolish their form of government, in such manner as they may deem expedient. Origin and Foundation of Government.  
7 Md. 147.  
1861, Res. 14.  
Right of Reform.

ART. 3. That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof. State's Rights.

ART. 4. That the inhabitants of Maryland are entitled to the common law of England, and the trial by jury according to the course of that law, and to the benefit of such of the English statutes as existed on the fourth day of July, Common Law.  
2 Md. 429.  
Trial by Jury.  
English Statutes.

Acts of Assembly.

16 Md. 539.

1852, ch. 60,

do. 275.

1856, ch. 220.

Charter of the  
State.

seventeen hundred and seventy-six, and which, by experience have been found applicable to their local and other circumstances, and have been introduced, used and practiced by the courts of law or equity, and also of all Acts of Assembly in force on the first day of June, eighteen hundred and sixty-four, except such as may have since expired, or may be inconsistent with the provisions of this Constitution, subject, nevertheless, to the revision of, and amendment or repeal by the Legislature of this State; and the inhabitants of Maryland are also entitled to all property derived to them from or under the charter granted by his Majesty Charles the First, to Cæcilius Calvert, Baron of Baltimore.

Allegiance to the  
United States.

ART. 5. The Constitution of the United States, and the laws made in pursuance thereof, being the supreme law of the land, every citizen of this State owes paramount allegiance to the Constitution and Government of the United States, and is not bound by any law or ordinance of this State in contravention or subversion thereof.

Right of Reform.

ART. 6. That all persons invested with the Legislative or Executive powers of government, are the trustees of the public, and as such accountable for their conduct; *wherefore*, whenever the ends of government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the people may, and of right ought to reform the old or establish a new government. The doctrine of non-resistance against arbitrary power and oppression is absurd, slavish and destructive of the good and happiness of mankind.

Right of Suffrage.

18 Md. 479.

ART. 7. That the right of the people to participate in the Legislature is the best security of liberty, and the foundation of all free government; for this purpose elections ought to be free and frequent, and every free white male citizen having the qualifications prescribed by the Constitution, ought to have the right of suffrage.

Separation of the  
Departments of  
Government.

2 Md. 311.

do. 429.

ART. 8. That the legislative, executive and judicial powers of government ought to be forever separate and distinct from each other; and no person exercising the functions of

one of said departments, shall assume or discharge the duties of any other.

10 Md. 478.  
15 Md. 376.

ART. 9. That no power of suspending laws, or the execution of laws, unless by or derived from the Legislature, ought to be exercised or allowed.

Suspension of Laws.

ART. 10. That freedom of speech and debate or proceedings in the Legislature, ought not to be impeached in any court of judicature.

Freedom of Speech.

ART. 11. That Annapolis be the place for the meeting of the Legislature; and the Legislature ought not to be convened or held at any other place but from evident necessity.

Seat of Government.

ART. 12. That for the redress of grievances, and for amending, strengthening and preserving the laws, the Legislature ought to be frequently convened.

Meeting of Legislature.

ART. 13. That every man hath a right to petition the Legislature for the redress of grievances in a peaceable and orderly manner.

Right of Petition.

ART. 14. That no aid, charge, tax, burthen, or fees, ought to be rated or levied, under any pretence, without the consent of the Legislature.

Levying of Taxes.

ART. 15. That the levying of taxes by the poll is grievous and oppressive, and ought to be prohibited; that paupers ought not to be assessed for the support of the Government, but every other person in the State, or person holding property therein, ought to contribute his proportion of public taxes, for the support of Government, according to his actual worth in real or personal property; yet fines, duties, or taxes may properly and justly be imposed or laid, with a political view, for the good government and benefit of the community.

Poll Taxes oppressive.

Paupers not to be taxed.

Taxation according to actual worth.  
Fines, &c.  
7 Md. 1.  
18 Md. 1.  
18 Md. 451.

ART. 16. That sanguinary laws ought to be avoided as far as it is consistent with the safety of the State; and no law to inflict cruel and unusual pains and penalties ought to be made in any case, or at any time hereafter.

Sanguinary Laws.

ART. 17. That retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust and incompatible

Retrospective Laws.

8 Md. 551.  
10 Md. 129.

with liberty; wherefore, no *ex post facto* law ought to be made.

Attainder.

ART. 18. That no law to attain particular persons of treason or felony, ought to be made in any case, or at any time hereafter.

Right to have justice.

ART. 19. That every man, for any injury done to him in his person or property, ought to have remedy by the course of the law of the land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the law of the land.

Trial of facts where they arise.

ART. 20. That the trial of facts where they arise, is one of the greatest securities of the lives, liberties, and estate of the people.

Criminal Prosecutions.

ART. 21. That in all criminal prosecutions, every man hath a right to be informed of the accusation against him; to have a copy of the indictment or charge, in due time (if required) to prepare for his defence; to be allowed counsel; to be confronted with the witnesses against him; to have process for his witnesses; to examine the witnesses for and against him on oath; and to a speedy trial by an impartial jury, without whose unanimous consent he ought not to be found guilty.

12 Md. 514.

Evidence against oneself.

ART. 22. That no man ought to be compelled to give evidence against himself in a criminal case.

7 Md. 416.

Freemen not to be imprisoned, &c., but by Law.

ART. 23. That no man ought to be taken or imprisoned, or dis seized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the law of the land.

4 Md. 423.

Slavery abolished.

ART. 24. That hereafter, in this State, there shall be neither slavery nor involuntary servitude, except in punishment of crime, whereof the party shall have been duly convicted; and all persons held to service or labor as slaves, are hereby declared free.

Bail, Fines, &c.

ART. 25. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted by the courts of law.

ART. 26. That all warrants, without oath, or affirmation, Search Warrants. to search suspected places, or to seize any person or property, are grievous and oppressive; and all general warrants to search suspected places, or to apprehend suspected persons, without naming or describing the place, or the person in special, are illegal, and ought not to be granted.

ART. 27. That no conviction shall work corruption of blood, nor shall there be any forfeiture of the estate of any person for any crime, except treason, and then only on conviction. Corruption of blood and forfeiture.

ART. 28. That a well regulated militia is the proper and Militia. natural defence of a free government.

ART. 29. That standing armies are dangerous to liberty, Standing Armies. and ought not to be raised or kept up without the consent of the Legislature.

ART 30. That in all cases and at all times the military Military subject to Civil Power. ought to be under strict subordination to, and control of the civil power.

ART. 31. That no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law. Quartering of soldiers.

ART. 32 That no person, except regular soldiers, mariners, and marines in the service of this State, or militia when in actual service, ought in any case to be subject to, or punishable by, martial law. Martial Law.

ART. 33. That the independency and uprightness of Judges. Judges are essential to the impartial administration of justice, and a great security to the rights and liberties of the people; wherefore the Judges shall not be removed, except 14 Md. 215. for misbehaviour, on conviction in a court of law, or by the Governor, upon the address of the General Assembly; *provided*, that two-thirds of all the members of each House concur in such address. No Judge shall hold any other office, civil or military, or political trust or employment of any kind whatsoever, under the Constitution or Laws of this 1 Md. 263. State, or of the United States, or any of them, or receive fees or perquisites of any kind for the discharge of his official duties.

Rotation in Offices.

ART. 34. That a long continuance in the executive departments of power or trust is dangerous to liberty; a rotation, therefore, in those departments is one of the best securities of permanent freedom

Holding Offices.

ART. 35. That no person ought to hold at the same time more than one office of profit, created by the Constitution or Laws of this State; nor ought any person in public trust to

Presents.

receive any present from any Foreign Prince, or State, or from the United States, or any of them, without the approbation of this State.

Religious Liberty.

ART. 36. That as it is the duty of every man to worship God in such manner as he thinks most acceptable to Him, all persons are equally entitled to protection in their religious liberty, wherefore, no person ought, by any law, to be molested in his person or estate, on account of his religious persuasion or profession, or for his religious practice, unless under the color of religion any man shall disturb the good order, peace, or safety of the State, or shall infringe the laws of morality, or injure others in their natural, civil, or religious rights; nor ought any person to be compelled to frequent or maintain or contribute, unless on contract, to maintain any place of worship or any ministry; nor shall any person be deemed incompetent as a witness or juror who believes in the existence of God, and that under his dispensation such person will be held morally accountable for his acts, and be rewarded or punished therefor, either in this world or the world to come.

Oath of Office.

ART. 37. That no other test or qualification ought to be required on admission to any office of trust or profit, than such oath of allegiance and fidelity to this State and the United States, as may be prescribed by this Constitution, and such oath of office and qualification as may be prescribed by this Constitution, or by the laws of the State, and a declaration of belief in the Christian religion; or in the existence of God, and in a future state of rewards and punishments.

ART. 38. That every gift, sale or devise of land, to any minister, public teacher or preacher of the gospel, as such, or to any religious sect, order or denomination, or to or for the support, use or benefit of, or in trust for any minister, public teacher or preacher of the gospel as such, or any religious sect, order or denomination, and every gift or sale of goods or chattels to go in succession, or to take place after the death of the seller or donor, to or for such support, use or benefit; and, also, every devise of goods or chattels, to or for the support, use or benefit of any minister, public teacher or preacher of the gospel, as such; or any religious sect, order or denomination, without the prior or subsequent sanction of the Legislature, shall be void; except always, any sale, gift, lease or devise of any quantity of land, not exceeding five acres, for a church, meeting house or other house of worship, or parsonage, or for a burying ground, which shall be improved, enjoyed, or used only for such purpose; or such sale, gift, lease or devise shall be void.

Disqualification  
of Ministers and  
Religious bodies  
from holding cer-  
tain property.

3 M.L. 119.

ART. 39. That the manner of administering an oath or affirmation to any person, ought to be such as those of the religious persuasion, profession or denomination, of which he is a member, generally esteem the most effectual confirmation by the attestation of the Divine Being.

Administering of  
Oaths.

ART. 40. That the liberty of the press ought to be inviolably preserved; that every citizen of the State ought to be allowed to speak, write and publish his sentiments on all subjects, being responsible for the abuse of that liberty.

Liberty of the  
Press.

ART. 41. That monopolies are odious, contrary to the spirit of a free government and the principles of commerce, and ought not to be suffered.

Monopolies.

ART. 42. That no title of nobility or hereditary honors ought to be granted in this State.

Titles of Nobility,  
&c.

ART. 43. That the Legislature ought to encourage the diffusion of knowledge and virtue, the extension of a judicious system of general education, the promotion of literature, the arts, sciences, agriculture, commerce and manufactures, and the general melioration of the condition of the people.

Duties of the  
Legislature.

Rights of the  
People.

ART. 44. This enumeration of rights shall not be construed to impair or deny others retained by the people.

Alteration of Con-  
stitution.

ART. 45. That the Legislature shall pass no law providing for an alteration, change or abolishment of this Constitution, except in the manner therein prescribed and directed.



# THE CONSTITUTION.

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## ARTICLE I.

### ELECTIVE FRANCHISE.

SECTION 1. All elections shall be by ballot, and every Ballot.  
white male citizen of the United States, of the age of  
twenty-one years or upwards, who shall have resided in the Qualification of  
State one year next preceding the election, and six months Voters.  
in any county, or in any legislative district of Baltimore 18 Md. 479.  
city, and who shall comply with the provisions of this  
Article of the Constitution, shall be entitled to vote, at all  
elections hereafter held in this State; and in case any  
county or city shall be so divided as to form portions of  
different electoral districts for the election of Congressman,  
Senator, Delegate, or other officer or officers, then to entitle  
a person to vote for such officer he must have been a resi-  
dent of that part of the county or city which shall form a  
part of the electoral district in which he offers to vote for  
six months next preceding the election; but a person who Removals.  
shall have acquired a residence in such county or city en-  
titled him to vote at any such election shall be entitled to  
vote in the election district from which he removed, until  
he shall have acquired a residence in the part of the county  
or city to which he has removed.

SEC. 2. The General Assembly shall provide by law for Registration.  
a uniform registration of the names of voters in this State,  
which registration shall be evidence of the qualification of  
said voters to vote at any election thereafter held, but no  
person shall be excluded from voting at any election on  
account of not being registered until the General Assembly  
shall have passed an act of registration, and the same shall  
have been carried into effect, after which no person shall  
vote unless his name appears on the register. The General

Soldiers' vote      Assembly shall also provide by law for taking the votes of soldiers in the army of the United States serving in the field.

Disqualifications.      SEC. 3. No person above the age of twenty-one years, convicted of larceny or other infamous crime, unless pardoned by the Governor, shall ever thereafter be entitled to vote at any election in this State, and no lunatic, or person *non compos mentis*, shall be entitled to vote.

Disqualifications arising under the Civil War.      SEC. 4. No person who has at any time been in armed hostility to the United States, or the lawful authorities thereof, or who has been in any manner in the service of the so-called "Confederate States of America," and no person who has voluntarily left this State and gone within the military lines of the so-called "Confederate States or armies" with the purpose of adhering to said States or armies, and no person who has given any aid, comfort, countenance or support to those engaged in armed hostility to the United States, or in any manner adhered to the enemies of the United States, either by contributing to the enemies of the United States, or unlawfully sending within the lines of such enemies money or goods, or letters, or information, or who has disloyally held communication with the enemies of the United States, or who has advised any person to enter the service of the said enemies, or aided any person so to enter, or who has by any open deed or word declared his adhesion to the cause of the enemies of the United States, or his desire for the triumph of said enemies over the arms of the United States, shall ever be entitled to vote at any election to be held in this State, or to hold any office of honor, profit or trust under the laws of this State, unless since such unlawful acts he shall have voluntarily entered into the military service of the United States, and been honorably discharged therefrom, or shall be on the day of election, actually and voluntarily in such service, or unless he shall be restored to his full rights of citizenship by an act of the General Assembly passed by a vote of two-thirds of all the members elected to each House; and it shall be the duty of all Officers of Regis-

tration and Judges of Election carefully to exclude from voting, or being registered, all persons so as above disqualified; and the Judges of Election at the first election held under this Constitution shall, and at any subsequent election may, administer to any person offering to vote the following oath or affirmation: I do swear or affirm that I Oath of Voters. am a citizen of the United States, that I have never given any aid, countenance or support to those in armed hostility to the United States, that I have never expressed a desire for the triumph of said enemies over the arms of the United States, and that I will bear true faith and allegiance to the United States and support the Constitution and laws thereof as the supreme law of the land, any law or ordinance of any State to the contrary notwithstanding; that I will in all respects demean myself as a loyal citizen of the United States, and I make this oath or affirmation without any reservation or evasion, and believe it to be binding on me; and any person declining to take such oath shall not be allowed to vote, but the taking of such oath shall not be deemed conclusive evidence of the right of such person to vote; and any person swearing or affirming falsely shall be liable to penalties of perjury, and it shall be the duty of the proper officers of registration to allow no person to be registered until he shall have taken the oath or affirmation above set out, and it shall be the duty of the Judges of Election in all their returns of the first election held under this Constitution to state in their said returns that every person who has voted has taken such oath or affirmation. But the provisions of this section in relation to acts against the United States shall not apply to any person not a citizen of the United States who shall have committed such acts while in the service of some foreign country at war against the United States, and who has, since such acts, been naturalized, or may be naturalized, under the laws of the United States, and the oath above set forth shall be taken in the case of such persons in such sense.

Bribery.

SEC. 5. If any person shall give, or offer to give, directly or indirectly, or hath given or offered to give, since the fourth day of July, eighteen hundred and fifty-one, any bribe, present, or reward, or any promise, or any security for the payment or delivery of money or any other thing, to induce any voter to refrain from casting his vote, or forcibly to prevent him in any way from voting, or to procure a vote for any candidate or person, proposed or voted for as Elector of President and Vice-President of the United States, or Representative in Congress, or for any office of profit or trust created by the Constitution or laws of this State, or by the ordinances or authority of the Mayor and City Council of Baltimore, the person giving or offering to give, and the person receiving the same, and any person who gives or causes to be given an illegal vote, knowing it to be such, at any election to be hereafter held in this State, or who shall be guilty of or accessory to any fraud, force, surprise, or bribery to procure himself or any other person to be nominated to any office, National, State, or Municipal, shall on conviction in a court of law, in addition to the penalties now or hereafter to be imposed by law, be forever disqualified to hold any office of profit or trust, or to vote at any election thereafter.

Penalties.

Punishment for  
illegal voting.  
1853, ch. 133.

SEC. 6. It shall be the duty of the General Assembly to pass laws to punish with fine and imprisonment any person who shall remove into any election district or precinct of any ward of the city of Baltimore, not for the purpose of acquiring a *bonâ fide* residence therein, but for the purpose of voting at an approaching election, or who shall vote in any election district or ward in which he does not reside (except in the case provided for in this Article), or shall at the same election vote in more than one election district or precinct, or shall vote or offer to vote in any name not his own, or in place of any other person of the same name, or shall vote in any county in which he does not reside.

Oath of Office.

SEC. 7. Every person elected or appointed to any office of trust or profit under this Constitution, or under the

laws made pursuant thereto, before he shall enter upon the duties of such office, shall take and subscribe the following oath or affirmation: I, —, do swear, (or affirm, as the case may be) that I will, to the best of my skill and judgment, diligently and faithfully, without partiality or prejudice, execute the office of —, according to the Constitution and laws of this State, and that since the fourth day of July, in the year eighteen hundred and fifty-one, I have not in any manner violated the provisions of the present, or of the late Constitution, in relation to the bribery of voters, or preventing legal votes or procuring illegal votes to be given (and if a Governor, Senator, Member of the House of Delegates, or Judge), that I will not, directly or indirectly, receive the profits or any part of the profits of any other office during the term of my acting as —. I do further swear or affirm, that I will bear true allegiance to the State of Maryland, and support the Constitution and Laws thereof, and that I will bear true allegiance to the United States, and support, protect and defend the Constitution, Laws and Government thereof, as the supreme law of the land, any law or ordinance of this or any State, to the contrary, notwithstanding; that I have never directly or indirectly, by word, act or deed, given any aid, comfort, or encouragement to those in rebellion against the United States, or the lawful authorities thereof; but that I have been truly and loyally on the side of the United States against those in armed rebellion against the United States; and I do further swear or affirm that I will to the best of my abilities protect and defend the Union of the United States, and not allow the same to be broken up and dissolved, or the Government thereof to be destroyed, under any circumstances, if in my power to prevent it; and that I will at all times discountenance and oppose all political combinations having for their object such dissolution or destruction.

1852, ch. 172.  
1854, ch. 18.  
4 Md. 189.

Allegiance.

SEC. 8. Every person holding any office of trust or profit under the late Constitution, or under any law of this State, and who shall be continued in office under this Constitution,

Officers under late Constitution to take oath.

or under any law of the State, shall within thirty days after this Constitution shall have gone into effect take and subscribe the oath or affirmation set forth in the Seventh Section of this Article, and if any such person shall fail to take said oath his office shall be *ipso facto* vacant. And every person hereafter elected or appointed to office in this State, who shall refuse or neglect to take the oath or affirmation of office provided for in the said Seventh Section of this Article shall be considered as having refused to accept the said office, and a new election or appointment shall be made as in case of refusal to accept or resignation of an office. And any person swearing or affirming falsely in the premises shall, on conviction thereof in a court of law, incur the penalties for willful and corrupt perjury, and thereafter shall be incapable of holding any office of profit or trust in this State.

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## ARTICLE II.

### EXECUTIVE DEPARTMENT.

Governor's term  
of office.

SECTION 1. The Executive power of the State shall be vested in a Governor, whose term of office shall commence on the second Wednesday of January next ensuing his election, and continue for four years, and until his successor shall have qualified, but the Governor chosen at the first election under this Constitution shall not enter upon the discharge of the duties of the office until the expiration of the term for which the present incumbent was elected, unless the said office shall become vacant by death, resignation, removal from the State, or other disqualification of said incumbent.

Time, place, and  
manner of electing  
Governor.

SEC. 2. An election for Governor under this Constitution shall be held on the Tuesday next after the first Monday of November, in the year eighteen hundred and sixty-four, and on the same day and month in every fourth year thereafter, at the places of voting for delegates to the General

Assembly, and every person qualified to vote for Delegates shall be qualified and entitled to vote for Governor; the election to be held in the same manner as the election of Delegates, and the returns thereof, under seal, to be addressed to the Speaker of the House of Delegates, and enclosed and transmitted to the Secretary of State, and delivered to the said Speaker at the commencement of the session of the General Assembly next ensuing said election. 1853, ch. 134.

SEC. 3. The Speaker of the House of Delegates shall then open the said returns in the presence of both Houses, and the person having the highest number of votes, and being constitutionally eligible, shall be the Governor, and shall qualify in the manner herein prescribed, on the second Wednesday of January next ensuing his election, or as soon thereafter as may be practicable. Plurality to elect. 1856, ch. 183.

SEC. 4. If two or more persons shall have the highest and an equal number of votes, one of them shall be chosen Governor by the Senate and House of Delegates; and all questions in relation to the eligibility of Governor, and to the returns of said election, and to the number and legality of votes, therein given, shall be determined by the House of Delegates; and if the person or persons having the highest number of votes be ineligible, the Governor shall be chosen by the Senate and House of Delegates. Every election of Governor by the General Assembly shall be determined by a joint majority of the Senate and House of Delegates, and the vote shall be taken *viva voce*. But if two or more persons shall have the highest and an equal number of votes, then a second vote shall be taken, which shall be confined to the persons having an equal number; and if the votes should be again equal, then the election of Governor shall be determined by lot between those who shall have the highest and an equal number on the first vote. Case of tie Senate and House to choose. House to determine all questions. Vote *viva voce* and jointly.

SEC. 5. A person to be eligible to the office of Governor must have attained the age of thirty years, and must have been for five years a citizen of the United States, and for Qualification of Governor.

five years next preceeding his election a resident of the State.

Lieutenant Gov-  
ernor.

SEC. 6. A Lieutenant Governor shall be chosen at every regular election for Governor. He shall continue in office for the same time, shall be elected in the same manner, and shall possess the same qualifications as the Governor. In voting for Governor and Lieutenant Governor, the electors shall state for whom they vote as Governor, and for whom as Lieutenant Governor.

President of  
Senate.

SEC. 7. The Lieutenant Governor shall, by virtue of his office, be President of the Senate, and whenever the Senate are equally divided, shall have the right to give the casting vote.

In case of death,  
&c., General As-  
sembly to elect.

SEC. 8. In case of the death, resignation, removal from the State, or other disqualification of the Governor, the powers, duties and emoluments of the office shall devolve upon the Lieutenant Governor; and in case of his death, resignation, removal, or other disqualification, then upon the President of the Senate for the time being, until the disqualification or inability shall cease, or until a new Governor shall be elected and qualified; and for any vacancy in said office, not herein provided for, provision may be made by law, and if such vacancy should occur without such provision being made, the General Assembly shall be convened by the Secretary of State for the purpose of filling said vacancy.

Provision to be  
made for vacancy.

President of Sen-  
ate pro tempore.

SEC. 9. Whenever the office of Governor shall be administered by the Lieutenant Governor, or he shall be unable to attend as President of the Senate, the Senate shall elect one of its own members as President, *pro tempore*.

Compensation of  
Lieutenant Gov-  
ernor.

SEC. 10. The Lieutenant Governor, while he acts as President of the Senate, shall receive for his services the same compensation which shall for the same period be allowed to the Speaker of the House of Delegates, and no more.

Governor to be  
Commander-in-  
Chief; but not to  
command in  
person.

SEC. 11. The Governor shall be Commander-in-Chief of the land and naval forces of the State, and may call out the militia to repel invasions, suppress insurrections, and



enforce the execution of the laws; but shall not take the command in person without the consent of the General Assembly.

SEC. 12. He shall take care that the laws be faithfully executed. His duties.

SEC. 13. He shall nominate, and by and with the advice and consent of the Senate, appoint all civil and military officers of the State, whose appointment or election is not otherwise herein provided for, unless a different mode of appointment be prescribed by the law creating the office. Appointments.

SEC. 14. In case of vacancy, during the recess of the Senate, in any office which the Governor has power to fill, he shall appoint some suitable person to said office, whose commission shall continue in force till the end of the next session of the General Assembly, or till some other person is appointed to the same office, whichever shall first occur, and the nomination of the person thus appointed during the recess, or of some other person in his place, shall be made to the Senate within thirty days after the next meeting of the General Assembly. Appointments during recess.  
3 Md. 341.  
14 Md. 215.  
1862, ch. 68.

SEC. 15. No person after being rejected by the Senate, shall be again nominated for the same office at the same session, unless at the request of the Senate; or be appointed to the same office during the recess of the General Assembly. Persons rejected not to be appointed.

SEC. 16. All civil officers appointed by the Governor and Senate, shall be nominated to the Senate within fifty days from the commencement of each regular session of the General Assembly; and their term of office, except in cases otherwise provided for in this Constitution, shall commence on the first Monday of May next ensuing their appointment, and continue for two years (unless sooner removed from office,) and until their successors respectively qualify according to law. Time of Nomination.  
Term of Office.

SEC. 17. The Governor may suspend or arrest any military officer of the State for disobedience of orders, or other military offence, and may remove him in pursuance of the sentence of a court-martial; and may remove, for incompetency or misconduct, all civil officers who received ap- Courts Martial.  
14 Md. 215.

pointments from the Executive for a term not exceeding two years.

Extra Sessions of  
Legislature.

SEC. 18. The Governor may convene the General Assembly, or the Senate alone, on extraordinary occasions; and whenever, from the presence of an enemy, or from any other cause, the seat of Government shall become an unsafe place for the meeting of the General Assembly, he may direct their sessions to be held at some other convenient place.

Governor to ex-  
amine Treasury  
accounts.

SEC. 19. It shall be the duty of the Governor semi-annually, and oftener if he deem it expedient, to examine the bank book, account books, and official proceedings of the Treasurer and Comptroller of the State.

Recommendations.

SEC. 20. He shall from time to time inform the General Assembly of the condition of the State, and recommend to their consideration such measures as he may judge necessary and expedient.

Pardoning Power.

SEC. 21. He shall have power to grant reprieves and pardons, except in cases of impeachment, and in cases in which he is prohibited by other articles of this Constitution, and to remit fines and forfeitures for offences against the State; but shall not remit the principal or interest of any debt due to the State, except in cases of fines and forfeitures; and before granting a *nolle prosequi*, or pardon, he shall give notice in one or more newspapers of the application made for it, and of the day on or after which his decision will be given; and in every case in which he exercises this power, he shall report to either branch of the General Assembly, whenever required, the petitions, recommendations and reasons which influenced his decision.

Reports to Legis-  
lature.

Finance and  
Salary.

SEC. 22. The Governor shall reside at the seat of Government, and shall receive for his services an annual salary of four thousand dollars.

Secretary of State.

SEC. 23. A Secretary of State shall be appointed by the Governor, by and with the advice and consent of the Senate, who shall continue in office, unless sooner removed by the Governor, till the end of the official term of the Governor from whom he received his appointment, and shall receive an annual salary of one thousand dollars.

1846, ch. 448.

1858, ch. 32.

SEC. 24. The Secretary of State shall carefully keep and His duties. preserve a record of all official acts and proceedings, which may at all times be inspected by a committee of either branch of the General Assembly, and shall perform such other duties as are now or may hereafter be prescribed by law, or as may properly belong to his office.

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### ARTICLE III.

#### LEGISLATIVE DEPARTMENT.

SECTION 1. The Legislature shall consist of two distinct Two Branches. branches, a Senate and a House of Delegates, which shall Style. be styled "The General Assembly of Maryland."

SEC. 2. Immediately after the adoption of this Consti- Three Districts in Baltimore city. tution, and before there shall have been held any general election under it, the Mayor and City Council of Baltimore shall proceed to lay off and divide the said city into three several districts, of equal population and contiguous territory, as near as may be, which said district shall be called the first, second, and third Legislative Districts of Baltimore city.

SEC. 3. Every county in the State, and each Legislative Election of Senators. district of Baltimore city, as hereinbefore provided for, shall be entitled to one Senator, who shall be elected by the qualified voters of the counties, and of the Legislative districts of Baltimore city, respectively, and shall serve for four years from the date of his election, subject to the Term of Office. classification of Senators, hereinafter provided for.

SEC. 4. The white population of the State shall consti- Apportionment in House of Delegates. tute the basis of representation in the House of Delegates, and the apportionment of the Delegates among the several counties and legislative districts of the city of Baltimore, shall be as follows: For every five thousand persons, or a fractional part thereof above one-half, one Delegate shall be chosen, until the number of Delegates in each county and legislative district of the city of Baltimore, shall reach

five; above that number, one Delegate shall be chosen for the next twenty thousand persons, or a fractional portion over one-half thereof, in each county and legislative district of the city of Baltimore; above that number, each county and legislative district of the said city, shall elect one Delegate for every eighty thousand persons, or fractional portion thereof, above one-half. Upon this principle, and as soon as practicable after each national census, or State enumeration of inhabitants, the General Assembly shall apportion the members of the House of Delegates among the several counties, and the several legislative districts of Baltimore city, according to the white population of each. But until such apportionment is made, the House of Delegates shall consist of eighty members, distributed as follows: Allegany, five members; Anne Arundel, two; each of the three legislative districts in Baltimore city, six; Baltimore county, six; Calvert, one; Caroline, two; Carroll, five; Cecil, four; Charles, one; Dorchester, two; Frederick, six; Harford, four; Howard, two; Kent, two; Montgomery, two; Prince George's, two; Queen Anne's, two; St. Mary's, one; Somerset, three; Talbot, two; Washington, five; Worcester, three.

Election of Delegates.

SEC. 5. The members of the House of Delegates shall be elected by the qualified voters of the counties and the legislative districts of Baltimore city, respectively, to serve for two years from the day of their election.

Term of Office.

Time of Elections.

SEC. 6. The first election for Senators and Delegates shall take place on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-four; and the elections for Delegates, and as nearly as practicable for one-half of the Senators, shall be held on the same day in every second year thereafter.

Classification of Senators.

SEC. 7. Immediately after the Senate shall have convened after the first election under this Constitution, the Senators shall be divided by lot into two classes, as nearly equal in number as may be—Senators of the first class shall go out of office at the expiration of two years, and Senators shall be elected on the Tuesday next after the first

Monday in the month of November, eighteen hundred and sixty-six, for the term of four years, to supply their places; so that after the first election, one-half of the Senators may be chosen every second year. In case the number of Senators be hereinafter increased, such classification of the additional Senators shall be made as to preserve, as nearly as may be, an equal number in each class.

SEC. 8. No person shall be eligible as a Senator or Delegate who, at the time of his election, is not a citizen of the United States, and who has not resided at least three years next preceding the day of his election in this State, and the last year thereof in the county or in the legislative district of Baltimore city which he may be chosen to represent, if such county or legislative district of said city shall have been so long established, and if not, then in the county or city from which, in whole or in part, the same may have been formed; nor shall any person be eligible as a Senator unless he shall have attained the age of twenty-five years, nor as a Delegate unless he shall have attained the age of twenty-one years at the time of his election.

Qualifications of  
Senators and Dele-  
gates.

SEC. 9. No member of Congress, or person holding any civil or military office under the United States, shall be eligible as a Senator or Delegate; and if any person shall, after his election as a Senator or Delegate, be elected to Congress, or be appointed to any office, civil or military, under the Government of the United States, his acceptance thereof shall vacate his seat.

Persons ineligible.  
1853, ch. 280.

SEC. 10. No person holding any civil office of profit or trust under this State, except Justices of the Peace, shall be eligible to the office of Senator or Delegate.

Same.

SEC. 11. No collector, receiver or holder of public moneys, shall be eligible as Senator or Delegate, or to any office of profit or trust under this State, until he shall have accounted for and paid into the Treasury all sums on the books thereof charged to and due by him.

Defaulters inelig-  
ible.

1856, ch. 16.

SEC. 12. In case of death, disqualification, resignation, refusal to act, expulsion, or removal from the county or legislative district of Baltimore city for which he shall have

Vacancies in Sen-  
ate or House.

been elected, of any person who shall have been chosen as a Delegate or Senator, or in case of a tie between two or more such qualified persons, a warrant of election shall be issued by the Speaker of the House of Delegates or President of the Senate, as the case may be, for the election of another person in his place, of which election not less than ten days' notice shall be given, exclusive of the day of the publication of the notice and of the day of election; and in case of such resignation or refusal to act, being communicated in writing to the Governor, by the person so resigning or refusing to act, or if such death occur during the legislative recess, and more than ten days before its termination, it shall be the duty of the Governor to issue a warrant of election to supply the vacancy thus created, in the same manner the said Speaker or President might have done during the session of the General Assembly; *provided, however*, that unless a meeting of the General Assembly may intervene, the election thus ordered to fill such vacancy shall be held on the day of the ensuing election for Delegates and Senators.

Meetings of Legislature.

SEC. 13. The General Assembly shall meet on the first Wednesday of January, eighteen hundred and sixty-five, and on the same day in every second year thereafter, and at no other time, unless convened by the proclamation of the Governor.

Compensation of Members.

1864, Res. 4.

SEC. 14. The General Assembly shall continue its session so long as in its judgment the public interest may require, and each member thereof shall receive a compensation of five dollars per diem, for every day he shall attend the sessions unless absent on account of sickness; *provided*, however, that no member shall receive any other or larger sum than four hundred dollars. When the General Assembly shall be convened by proclamation of the Governor, the session shall not continue longer than thirty days, and in such case, the compensation shall be at the rate of five dollars per diem.

Extra Sessions.

SEC. 15. No book or other printed matter not appertaining to the business of the session shall be purchased or subscribed for, for the use of the members of the General Assembly, or be distributed among them, at the public expense.

Books not to be purchased.

SEC. 16. No Senator or Delegate, after qualifying as such, notwithstanding he may thereafter resign, shall, during the whole period of time for which he was elected, be eligible to any office which shall have been created, or the salary or profits of which shall have been increased during such term, or shall, during said whole period of time, be appointed to any civil office by the Executive or General Assembly.

Disqualifications to hold certain offices.

SEC. 17. No Senator or Delegate shall be liable in any civil action or criminal prosecution whatever, for words spoken in debate.

Exemption for words in debate.

SEC. 18. Each House shall be judge of the qualifications and elections of its members, subject to the laws of the State; shall appoint its own officers, determine the rules of its own proceedings, punish a member for disorderly or disrespectful behaviour, and with the consent of two-thirds of its whole number of members elected, expel a member; but no member shall be expelled a second time for the same offence.

Powers in each House.

SEC. 19. A majority of the whole number of members elected to each House, shall constitute a quorum for the transaction of business; but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties, as each House may prescribe.

Quorum.

SEC. 20. The doors of each House and of the committees of the whole shall be open, except when the business is such as ought to be kept secret.

Sessions to be open.

SEC. 21. Each House shall keep a journal of its proceedings, and cause the same to be published. The yeas and nays of members on any question shall, at the call of any five of them in the House of Delegates, or one in the Senate, be entered on the journal.

Journals to be published.  
1853, ch. 36.

Each House may  
imprison for dis-  
respect.

SEC. 22. Each House may punish, by imprisonment, during the session of the General Assembly, any person not a member for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings, or any of its officers in the execution of their duties; provided such imprisonment shall not, at any one time, exceed ten days.

Powers of the  
House of Delegates.

SEC. 23. The House of Delegates may inquire, on the oath of witnesses, into all complaints, grievances and offences, as the Grand Inquest of the State, and may commit any person for any crime to the public jail, there to remain until discharged by due course of law; they may examine and pass all accounts of the State, relating either to the collection or expenditure of the revenue, and appoint auditors to state and adjust the same, they may call for all public or official papers and records, and send for persons whom they may judge necessary in the course of their inquiries concerning affairs relating to the public interest, and may direct all office bonds which shall be made payable to the State, to be sued for any breach thereof.

Special adjourn-  
ments.

SEC. 24. Neither House shall, without the consent of the other, adjourn for more than three days at any one time, nor to any other place than that in which the House shall be sitting, without the concurrent vote of two-thirds of the members present.

Impeachment.

SEC. 25. The House of Delegates shall have the sole power of impeachment in all cases, but a majority of all the members elected must concur in an impeachment; all impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall be on oath or affirmation to do justice according to the law and evidence, but no person shall be convicted without the concurrence of two-thirds of all the Senators elected.

Either House may  
originate Bills.

SEC. 26. Any bill may originate in either House of the General Assembly, and be altered, amended, or rejected by the other; but no bill shall originate in either House during the last ten days of the session, nor become a law until it be read on three different days of the session in each House,



unless three-fourths of the members of the House where such bill is pending shall so determine.

SEC. 27. No bill shall become a law unless it be passed in each House by a majority of the whole number of members elected, and on its final passage the ayes and noes be recorded.

Passage of Bills.

SEC. 28. The style of all laws of this State shall be, "Be it enacted by the General Assembly of Maryland," and all laws shall be passed by original bill, and every law enacted by the General Assembly shall embrace but one subject, and that shall be described in the title; and no law nor section of a law shall be revived or amended by reference to its title or section only; and it shall be the duty of the General Assembly, in amending any article or section of the code of laws of this State, to enact the same as the said article or section would read when amended. And whenever the General Assembly shall enact any public general law, not amendatory of any section or article in the said code, it shall be the duty of the General Assembly to enact the same in articles and sections, in the same manner as the said code is arranged; and to provide for the publication of all additions and alterations which may be made to the said code.

Style of Laws.

Mode of enactment.

11 Md. 525.

14 Md. 184.

7 Md. 151.

Amendments.

SEC. 29. Every bill, when passed by the General Assembly, and sealed with the Great Seal, shall be presented to the Governor, who shall sign the same in the presence of the presiding officers and chief clerks of the Senate and House of Delegates. Every law shall be recorded in the office of the Court of Appeals, and in due time be printed, published, and certified under the Great Seal to the several courts, in the same manner as has been heretofore usual in this State.

Bills to be signed by Governor, and recorded in Court of Appeals.

14 Md. 184.

SEC. 30. No law passed by the General Assembly shall take effect until the first day of June next after the session at which it may be passed, unless it be otherwise expressly declared therein; and in case any public law is made to take effect before the said first day of June, the General

When Laws take effect.

14 Md. 184.

19 Md. 96.

Assembly shall provide for the immediate publication of the same.

Appropriations to  
be made by law.

4 Md. 189.

Contingent Fund.

SEC. 31. No money shall be drawn from the treasury of the State, except in accordance with an appropriation by law, and every such law shall distinctly specify the sum appropriated, and the object to which it shall be applied; provided that nothing herein contained shall prevent the General Assembly from placing a contingent fund at the disposal of the Executive, who shall report to the General Assembly at each session the amount expended, and the purposes to which it was applied; an accurate statement of the receipts and expenditures of the public money shall be attached to and published with the laws, after each regular session of the General Assembly.

Local and Special  
Laws not to be  
passed.

SEC. 32. The General Assembly shall not pass local or special laws in any of the following enumerated cases, viz.:

For the assessment and collection of taxes for State or county purposes, or extending the time for the collection of taxes;

Providing for the support of the public schools;

The preservation of school funds;

The location or the regulation of school houses;

Granting divorces;

Relating to fees or salaries;

Relating to the interest on money;

Providing for regulating the election or compensation of State or county officers;

Or designating the places of voting;

Or the boundaries of election districts;

Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities, by executors, administrators, guardians or trustees;

Giving effect to informal or invalid deeds or wills;

Refunding money paid into the State treasury, or releasing persons from their debts or obligations to the State, unless recommended by the Governor or officers of the treasury department;

Or establishing, locating or affecting the construction of roads, and the repairing or building of bridges.

And the General Assembly shall pass no special law for any case for which provision has been made by an existing general law. The General Assembly at its first session after the adoption of this Constitution, shall pass general laws providing for the cases enumerated in this section, and for all other cases where a general law can be made applicable.

General Laws to be provided.

SEC. 33. No debt shall be hereafter contracted by the General Assembly, unless such debt shall be authorized by a law providing for the collection of an annual tax or taxes sufficient to pay the interest on such debt as it falls due, and also to discharge the principal thereof within fifteen years from the time of contracting the same, and the taxes laid for this purpose shall not be repealed or applied to any other object until the said debt and interest thereon shall be fully discharged. The credit of the State shall not, in any manner, be given or loaned to, or in aid of any individual, association or corporation, nor shall the General Assembly have the power in any mode to involve the State in the construction of works of internal improvement, nor in any enterprise which shall involve the faith or credit of the State, nor make any appropriations therefor. And they shall not use or appropriate the proceeds of the internal improvement companies, or of the State tax now levied, or which may hereafter be levied, to pay off the public debt, to any other purpose until the interest and debt are fully paid, or the sinking fund shall be equal to the amount of the outstanding debt; but the General Assembly may, without laying a tax, borrow an amount never to exceed fifty thousand dollars, to meet temporary deficiencies in the treasury, and may contract debts to any amount that may be necessary for the defence of the State.

Debts not to be contracted.

Credit of the State not to be given.  
15 Md. 205.

SEC. 34. No extra compensation shall be granted or allowed by the General Assembly to any public officer, agent, servant or contractor, after the services shall have been rendered or the contract entered into; nor shall the salary or compensation of any public officer be increased or diminished during his term of office.

Extra compensation not to be allowed.

Lotteries prohibited.

SEC. 35. No Lottery grant shall ever hereafter be authorized by the General Assembly.

Compensation for Slaves not to be allowed.

SEC. 36. The General Assembly shall pass no law, nor make any appropriation to compensate the masters or claimants of slaves emancipated from servitude by the adoption of this Constitution.

No imprisonment for debt.  
5 Md. 337.  
Banks not to be chartered.

SEC. 37. No person shall be imprisoned for debt.

1853, ch. 441.

1854, ch. 152.

SEC. 38. The General Assembly shall grant no charter for banking purposes, nor renew any banking corporation now in existence, except upon the condition that the stockholders shall be liable to the amount of their respective share or shares of stock in such banking institution for all its debts and liabilities upon note, bill or otherwise; and upon the further condition that no director or other officer of said corporation shall borrow any money from said corporation; and if any director or other officer shall be convicted upon indictment of directly or indirectly violating this section, he shall be punished by fine or imprisonment at the discretion of the Court. The books, papers, and accounts of all banks shall be open to inspection, under such regulations as may be prescribed by law.

Provisions relating to Banks.

Compensation for property taken for Public use.

7 Md. 500.

1853, ch. 179.

14 Md. 444.

15 Md. 240.

SEC. 39. The General Assembly shall enact no law authorizing private property to be taken for public use without just compensation as agreed upon between the parties or awarded by a jury, being first paid or tendered to the party entitled to such compensation.

Duellists ineligible to office.

SEC. 40. Any citizen of this State who shall, after the adoption of this Constitution, either in or out of this State, fight a duel with deadly weapons, or send or accept a challenge so to do, or who shall act as a second, or knowingly aid or assist in any manner those thus offending, and any citizen who has thus offended, or who has so aided or assisted those thus offending, since the first Wednesday of June, eighteen hundred and fifty-one, shall ever thereafter be incapable of holding any office of trust or profit under this State.

Registration of voters.

SEC. 41. The General Assembly shall pass laws for the preservation of the purity of elections by the registration of

voters, and by such other means as may be deemed expedient; and to make effective the provisions of the Constitution disfranchising certain persons, or disqualifying them from holding office.

SEC. 42. The General Assembly shall pass laws necessary to protect the property of the wife, from the debts of the husband during her life, and for securing the same to her issue after her death.

Wife's property protected.  
1853, ch. 245 & 335.  
12 Md. 294.  
19 Md. 9.

SEC. 43. Laws shall be passed by the General Assembly to protect from execution a reasonable amount of property of a debtor, not exceeding in value the sum of five hundred dollars.

Exemption Laws.

SEC. 44. The General Assembly shall provide a simple and uniform system of charges in the offices of Clerks of Courts and Registers of Wills, in the counties of this State and the city of Baltimore, and for the collection thereof; provided the amount of compensation to any of said officers shall not exceed the sum of twenty-five hundred dollars a year over and above office expenses, and compensation to assistants; and provided further, that such compensation of clerks, registers, assistants and office expenses, shall always be paid out of the fees or receipts of the offices respectively.

Compensation of Clerks and Registers.  
1852, ch. 308.

SEC. 45. The General Assembly shall have power to receive from the United States any grant or donation of land, money or securities, for any purpose designated by the United States, and shall administer or distribute the same according to the conditions of the said grant.

Legislature may receive land, &c. from United States.

SEC. 46. The General Assembly shall make provision for all cases of contested elections of any of the officers not herein provided for.

Contested Elections.  
1853, ch. 244.  
17 Md. 309.

SEC. 47. The General Assembly shall pass laws requiring the president, directors, trustees, or agents of corporations created or authorized by the laws of this State, teachers or superintendents of the public schools, colleges, or other institutions of learning; attorneys-at-law, jurors, and such other persons as the General Assembly shall from time to time prescribe, to take the oath of allegiance to the United States, set forth in the first article of this Constitution.

Oath to be taken by certain persons.

Cession of Territory to this State.

SEC. 48. The General Assembly shall have power to accept the cession of any territory contiguous to this State, from the States of Virginia and West Virginia, or from the United States, with the consent of Congress, and of the inhabitants of such ceded territory, and in case of such cessions the General Assembly may divide such territory into counties, and shall provide for the representation of the same in the General Assembly, on the basis fixed by this Constitution, and may for that purpose increase the number of Senators and Delegates, and the General Assembly shall enact such laws as may be required to extend the Constitution and laws of this State over such territory, and may create courts conformably to the Constitution for such territory, and may for that purpose increase the number of Judges of the Court of Appeals.

Extension of Constitution, &c., over the same.

Registration of Births, Marriages, and Deaths.

SEC. 49. The General Assembly shall provide by law for the registration of births, marriages and deaths, and shall pass laws providing for the celebration of marriage between any persons legally competent to contract marriage, and shall provide that any persons prevented by conscientious scruples from being married by any of the existing provisions of the law, may be married by any Judge or Clerk of any Court of Record, or any Mayor of any incorporated city in this State.

Marriages by Judge.

Rate of Interest.  
13 Md. 202.

SEC. 50. The rate of interest in this State shall not exceed six per centum per annum, and no higher rate shall be taken or demanded, and the General Assembly shall provide by law, all necessary forfeitures and penalties against usury.

Corporations to be formed under General Laws.

1852, ch. 231.

1853, ch. 320.

1854, ch. 147.

SEC. 51. Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes and in cases where, in the judgment of the General Assembly, the object of the corporation cannot be attained under general laws. All laws and special acts, pursuant to this section, may be altered from time to time, or repealed; *Provided*, nothing herein contained shall be construed to alter, change or amend, in any manner, the section in relation to banks.

SEC. 52. The Governor, Comptroller, and Treasurer of the State are hereby authorized, conjointly, or any two of them, to exchange the State's interest as stockholder and creditor in the Baltimore and Ohio Rail Road Company for an equal amount of the bonds or registered debt now owing by the State; and, subject to such regulations and conditions as the General Assembly may from time to time prescribe, to sell the State's interest in the other works of internal improvement, whether as a stockholder or a creditor; also, the State's interest in any banking corporation, and receive in payment the bonds and registered debt now owing by the State, equal in amount to the price obtained for the State's said interest; *Provided*, that the interest of the State in the Washington Branch of the Baltimore and Ohio Rail Road be reserved and excepted from sale; and *Provided further*, that no sale or contract of sale of the State's interest in the Chesapeake and Ohio Canal, the Chesapeake and Delaware Canal, and the Susquehanna and Tide-Water Canal Companies shall go into effect until the same shall be ratified by the ensuing General Assembly.

Balt. & Ohio Rail Road Stock may be exchanged.

Sale of other Stocks.

SEC. 53. The General Assembly before authorising the sale of the State's interest in the Chesapeake and Ohio Canal, and before prescribing regulations and conditions for said sale, shall pass all laws that may be necessary to authorize the Counties of Allegany, Washington, Frederick and Montgomery, or any one of them, to create a debt by the issue of bonds or otherwise, so as to enable them, or any of them, to become the purchasers of said interest.

Chesapeake & Ohio Canal may be sold to Allegany, &c. Counties.

SEC. 54. The General Assembly shall have power to regulate by law, not inconsistent with this Constitution, all matters which relate to the Judges of Election, time, place and manner of holding elections in this State, and of making returns thereof.

Regulations of Elections.

SEC. 55. The General Assembly shall have power to pass all such laws as may be necessary and proper for carrying into execution the powers vested by this Constitution, in any department or office of the Government, and the duties imposed upon them thereby.

Laws to be passed to carry this Constitution into effect.

## ARTICLE IV.

## JUDICIARY DEPARTMENT.

## PART I.—GENERAL PROVISIONS.

The Judicial Power  
how vested.  
17 Md. 331.

SECTION 1. The Judicial power of this State shall be vested in a Court of Appeals, Circuit Courts, Orphans' Courts, such Courts for the City of Baltimore as may be hereinafter prescribed or provided for, and Justices of the Peace; all said Courts shall be Courts of Record, and each shall have a seal, to be used in the authentication of all process issuing from them. The process and official character of Justices of the Peace shall be authenticated as hath heretofore been practised in this State, or may hereafter be prescribed by law.

Qualifications of  
Judges.

SEC. 2. The Judges of the several Courts, except the Judges of the Orphans' Courts, shall be citizens of the United States, and residents of this State, not less than five years next preceeding their election, or appointment by the Executive in case of a vacancy; and not less than one year next preceeding their election or appointment, residents in the Judicial District or Circuit, as the case may be, for which they may be elected or appointed; they shall be not less than thirty years of age at the time of their election and selected from those who have been admitted to practice law in this State, and who are most distinguished for integrity, wisdom and sound legal knowledge.

Elections of  
Judges.

SEC. 3. The Judges of the Court of Appeals shall be elected by the qualified voters of the State; and the Governor, by and with the advice and consent of the Senate, shall designate the Chief Justice; and the Judges of the Judicial Circuits shall be elected by the qualified voters of their respective Circuits; each Judge of the Court of Appeals and of each Judicial Circuit shall hold his office for the term of fifteen years, from the time of his election, or until he shall have attained the age of seventy years, whichever may first happen, and be re-eligible thereto until

Term of Office.



he shall have attained the age of seventy years, and not after.

SEC. 4. Any Judge shall be removed from office by the Governor on conviction in a court of law, of incompetency, of wilful neglect of duty, misbehavior in office, or any other crime; or on impeachment according to this Constitution, or the laws of the State; or on the address of the General Assembly, two-thirds of each House concurring in such address, and the accused having been notified of the charges against him, and had opportunity of making his defence.

Removal of Judges.

14 Md. 215.

SEC. 5. In case of the death, resignation, removal, or other disqualification of a Judge of any Court of this State, except of the Orphans' Courts, the Governor, by and with the advice and consent of the Senate, shall thereupon appoint a person duly qualified to fill said office until the next general election thereafter, whether for Members of the General Assembly or County officers, whichever shall first occur, at which time an election shall be held as herein prescribed for a Judge, who shall hold said office for the term of fifteen years, and until the election and qualification of his successor.

Provisions in case of death, &c.

SEC. 6. All Judges shall, by virtue of their offices, be conservators of the peace throughout the State, and no fees or perquisites, commission or reward of any kind, shall be allowed to any Judge in this State, besides his annual salary or fixed per diem for the discharge of any Judicial duty.

Judges to be Conservators of the Peace.

No fees to Judges.

8 Md. 227.

1 Md. 268.

SEC. 7. No Judge shall sit in any case wherein he may be interested, or where either of the parties may be connected with him by affinity or consanguinity within such degrees as now are or may hereafter be prescribed by law, or where he shall have been of counsel in the case.

Judges disqualified, &c.

1852, ch. 263.

SEC. 8. The General Assembly shall provide for the trial of causes in case of the disqualification of the Judge of the Superior Court of Baltimore city, the Court of Common Pleas, the Circuit Court of Baltimore city, and the Criminal Court of Baltimore, and also in case of the

Trial of causes on disqualification.

1852, ch. 68.

1853, ch. 299 & 425.

9 Md. 324.

1858, ch. 216 & 426.

disqualification of any Judge of other Circuit Courts of this State, to hear and determine the same, but in case of such disqualification, the parties thereto may, by consent, appoint a person to try the same; and the parties to any cause may submit the same to the Court for determination without the aid of a jury.

Trial without  
Jury.

Removal of cases.

2 Md. 274.

5 Md. 370.

6 Md. 449.

1852, ch. 169.

do. 315.

1854, ch. 325.

SEC. 9. The Judge or Judges of any Court of this State, except the Court of Appeals, shall order and direct the record of proceedings in any suit or action, issue or petition, presentment or indictment pending in such Court, to be transmitted to some other Court in the same or any adjoining Circuit having jurisdiction in such causes, whenever any party to such cause, or the counsel of any party shall make it satisfactorily appear to the Court that such party cannot have a fair and impartial trial in the Court in which such suit or action, issue or petition, presentment or indictment is pending; and the General Assembly shall make such modifications of existing law as may be necessary to regulate and give force to this provision.

Judges to appoint  
Officers.

SEC. 10. The Judge or Judges of any Court may appoint such officers for their respective Courts, as may be found necessary, and it shall be the duty of the General Assembly to prescribe by law a fixed compensation for all such officers.

Citizen may try  
his own case.

SEC. 11. Every person being a citizen of the United States shall be permitted to appear to and try his own case in all the Courts of this State.

Detaining Slaves.

SEC. 12. Any person who shall, after this Constitution shall have gone into effect, detain in slavery any person emancipated by the provisions of this Constitution, shall, on conviction be fined not less than five hundred dollars nor more than five thousand dollars, or be imprisoned not more than five years; and any of the Judges of this State shall discharge, on *Hab<sup>as</sup> Corpus*, any person so detained in slavery.

Clerks to keep  
Records, &c.

SEC. 13. The Clerks of the several Courts created or continued by this Constitution, shall have charge and custody of the Records and other papers, shall perform all

the duties and be allowed the fees which appertain to their several offices as the same now are or may hereafter be regulated by law.

SEC. 14. All elections of Judges, and other officers, provided for by this Constitution, States' Attorneys excepted, shall be certified and the returns made by the Clerks of the respective Counties to the Governor, who shall issue commissions to the different persons for the offices to which they shall have been respectively elected; and in all such elections, the person having the greatest number of votes shall be declared to be elected.

Election Returns.  
1853, ch. 134.

SEC. 15. If in any case of election for Judges, Clerks of the Courts of Law, and Registers of Wills, the opposing candidates shall have an equal number of votes, it shall be the duty of the Governor to order a new election; and in case of any contested election, the Governor shall send the returns to the House of Delegates, who shall judge of the election and qualification of the candidates at such election.

Tie in Election.

SEC. 16. All public commissions and grants shall run thus: "The State of Maryland;" &c., and shall be signed by the Governor, with the seal of the State annexed; all writs and process shall run in the same style, and be tested, sealed and signed as usual; and all indictments shall conclude "against the peace, government and dignity of the State."

Style of Commissions and Writs.

## PART II.—COURT OF APPEALS.

SEC. 17. The Court of Appeals shall consist of a Chief Justice and four Associate Justices, and for their selection the State shall be divided into five Judicial Districts, as follows, viz.: Worcester, Somerset, Dorchester, Talbot, Caroline, Queen Anne, Kent and Cecil Counties shall compose the First District; Harford and Baltimore Counties, and the first seven Wards of Baltimore city, shall compose the Second District; Baltimore city, except the first seven Wards, shall compose the Third District; Allegany, Washington, Frederick, Howard and Carroll Counties, shall compose the Fourth District; St. Mary's, Charles, Anne

Court of Appeals—  
five Judges.

Arundel, Calvert, Prince George's and Montgomery Counties, shall compose the Fifth District, and one of the Justices of the Court of Appeals shall be elected from each of said districts, by the qualified voters of the whole State. The present Chief Justice and Associate Justices of the Court of Appeals shall continue to act as such until the expiration of the term for which they were respectively elected, and until their successors are elected and qualified; and an election for a Justice of the Court of Appeals, to be taken from the Fourth Judicial District, shall be held on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-four.

1 Md. 368.

Two Sessions.  
April and October.  
1852, ch. 82.

SEC. 18. The Court of Appeals shall hold its sessions in the City of Annapolis, on the first Monday in April and the first Monday in October, of each and every year, or at such other times as the General Assembly may by law direct, and it shall be competent for the Justices of said Court, sufficient cause appearing to them, temporarily to transfer their sittings elsewhere.

Jurisdiction.  
18 Md. 202.

SEC. 19. The jurisdiction of the Court of Appeals shall be co-extensive with the limits of the State, and such as now is or may hereafter be prescribed for it by law, and its sessions shall continue for not less than ten months in the year, if the business before it shall so require.

Sit ten months.

Three Judges a  
Quorum.

SEC. 20. Any three of the Justices of the Court of Appeals may constitute a quorum, but no cause shall be decided without the concurrence of at least three Justices in the decision; and in every case decided an opinion in writing shall be filed within three months after the argument or submission of the cause, and the judgment of the Court shall be final and conclusive.

Opinion to be filed  
in three months.

Salary.

SEC. 21. The salary of the Justices of the Court of Appeals shall be three thousand dollars, each per annum, payable quarterly.

Reports to be published.  
1852, ch. 55 & 351.  
1854, Res. 5.

SEC. 22. Provision shall be made by law for publishing reports of all causes argued and determined in the Court of Appeals, which the Justices shall designate as proper for publication.

SEC. 23. The Court of Appeals shall appoint its own Clerk, who shall hold his office for six years, and may be re-appointed at the end thereof; he shall be subject to removal by the said Court for incompetency, neglect of duty, misdemeanor in office, or such other cause or causes as may be prescribed by law.

Clerk to be appointed.

### PART III.—CIRCUIT COURTS.

SEC. 24. The State shall be divided into thirteen Judicial Circuits, in manner following: The Counties of St. Mary's and Charles shall constitute the First Circuit; the Counties of Anne Arundel and Calvert, the Second; the Counties of Prince George's and Montgomery, the Third; the County of Frederick, the Fourth; the County of Washington, the Fifth; the County of Allegany, the Sixth; the Counties of Carroll and Howard, the Seventh; the County of Baltimore, the Eighth; the Counties of Harford and Cecil, the Ninth; the Counties of Kent and Queen Anne's, the Tenth; the Counties of Talbot and Caroline, the Eleventh; the Counties of Dorchester, Somerset and Worcester, the Twelfth; and the city of Baltimore, the Thirteenth.

Thirteen Judicial Circuits.

SEC. 25. One Court shall be held in each county of the State; the said Courts shall be called Circuit Courts for the county in which they may be held, and shall have and exercise all the power, authority and jurisdiction, original and appellate, which the present Circuit Courts of this State now have and exercise, or which may hereafter be prescribed by law.

One Court in each County.

Its Jurisdiction.  
1852, ch. 16, § 1, 75,  
111, 136, 219, 326,  
and 344.  
1853, ch. 181, 238,  
406.

SEC. 26. For each Circuit (the Thirteenth excepted) there shall be one Judge, who shall be styled Circuit Judge, who, during his term of office, shall reside in one of the counties composing the Circuit for which he may be elected; the said Judges shall hold a term of their Courts in each of the counties composing their respective Circuits at such times as now are or may hereafter be fixed by law, such terms to be never less than two in each year in each county; special terms may be held by said Judges in their

One Judge for each Circuit.

Two Terms in each year.

discretion, whenever the business of their several counties renders such terms necessary.

Present Judges  
continued in office.

SEC. 27. The present Judges of the Circuit Courts shall continue to act as Judges of the respective Circuit Courts within the Judicial Circuits in which they respectively reside, until the expiration of the term for which they were respectively elected, and until their successors are elected and qualified, viz.: the present Judges of the First, Second, Third, Fourth, Sixth and Eighth Judicial Circuits, as organized at the time of the adoption of this Constitution, shall continue to act as Judges respectively of the First, Second, Fourth, Fifth, Ninth and Twelfth Judicial Circuits,

New Judges to be  
elected.

as organized under this Constitution; and an election for Judges of the Third, Sixth, Seventh, Eighth, Tenth and Eleventh Judicial Circuits shall be held on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-four.

Salary, \$2,500.

SEC. 28. The salary of each Judge of the Circuit Court shall be twenty-five hundred dollars per annum, payable quarterly, and shall not be increased or diminished during his continuance in office.

Clerks.

1853, ch. 134.

11 Md. 296.

SEC. 29. There shall be a Clerk of the Circuit Court for each county, who shall be elected by a plurality vote of the qualified voters of said county; he shall hold his office for the term of six years from the time of his election, and until a new election is held and his successor duly qualified; he shall be re-eligible at the end of his term, and shall at any time be subject to removal for wilful neglect of duty, or other misdemeanor in office, on conviction in a court of law. In the event of any vacancy in the office of the Clerk of any of the Circuit Courts, said vacancy shall be filled by the Judge of said Circuit in which said vacancy occurs, until the next general election for county officers, when a Clerk of said Circuit Court shall be elected to serve for six years thereafter.

Term six years.

Re-eligible.

11 Md. 242.

1852, ch. 173 & 305.

1853, ch. 134, 409,

414.

1858, ch. 363.

Vacancy.

1 Md. 374.

11 Md. 101.

Decisions within  
two months.

SEC. 30. The judges of the respective Circuit Courts of this State, and of the Courts of Baltimore city, shall render their decisions in all cases argued before them, or sub-

mitted for their judgment, within two months after the same shall have been so argued or submitted.

#### PART IV.—COURTS OF BALTIMORE CITY.

SEC. 31. There shall be in the Thirteenth Judicial Circuit four Courts, to be styled the Superior Court of Baltimore city; the Court of Common Pleas; the Circuit Court of Baltimore city; and the Criminal Court of Baltimore; each Court shall consist of one Judge, who shall be elected by the legal and qualified voters of said city, and shall hold his office for the term of fifteen years, subject to the provisions of this Constitution with regard to the election and qualification of Judges, and their removal from office, and shall exercise the jurisdiction hereinafter specified.

Courts in Baltimore city.

One Judge in each Court.

Term 15 years.

SEC. 32. Each of said Judges shall receive an annual salary of three thousand dollars, payable quarterly

Salary, \$3,000.

SEC. 33. The Superior Court of Baltimore city shall have jurisdiction over all suits where the debt or damage claimed, exclusive of interest, shall exceed the sum of one thousand dollars, and in case any plaintiff or plaintiffs shall recover less than the sum or value of one thousand dollars, he or they shall be allowed or adjudged to pay costs in the discretion of the Court. The said Court shall also have jurisdiction as a Court of Equity within the limits of the said city, and in all other civil cases which are not hereinafter assigned to the Court of Common Pleas, and also have jurisdiction in all cases of appeals from the Commissioners for opening streets.

Jurisdiction of Superior Court.

7 Md. 135.

13 Md. 314.

1852, ch. 198, 227, 312, 323.

1853, ch. 451.

SEC. 34. The Court of Common Pleas shall have civil jurisdiction in all suits where the debt or damage claimed, exclusive of interest, shall be over one hundred dollars, and shall not exceed one thousand dollars; and shall also have jurisdiction in all cases of appeal in civil cases from the judgment of Justices of the Peace in the said city, and shall have jurisdiction in all applications for the benefit of the insolvent laws of this State, and the supervision and control of the trustees thereof.

Jurisdiction of Court of Common Pleas.

1852, ch. 159 & 251.

1853, ch. 86 & 238.

1858, ch. 323.

5 Md. 337.

8 Md. 147.

13 Md. 314.

14 Md. 173.

Jurisdiction of  
Circuit Court.  
18 Md. 505.

SEC. 35. The Circuit Court of Baltimore city shall have jurisdiction concurrent with the Superior Court of Baltimore city, in all cases in Equity, in cases arising under the act to direct descents, and its supplements, and shall exercise all the power that is now conferred by law, provided said Court shall not have jurisdiction in applications for the writ of *Habeas Corpus*, in cases of persons charged with criminal offences.

Jurisdiction of  
Criminal Court.  
1852, ch. 344.  
1853, ch. 33

SEC. 36. The Criminal Court of Baltimore shall have and exercise all the jurisdiction now held and exercised by the Criminal Court of Baltimore, except in cases of appeals from Commissioners for Opening Streets, and shall have jurisdiction in all cases of appeals from Justices of the Peace in said city, for the recovery of fines, penalties and forfeitures.

Present Judges  
continued.

SEC. 37. The present Judges of the several Courts of Baltimore city, shall continue to act as such until the expiration of the terms for which they were respectively elected, and until their successors are elected and qualified.

Causes pending  
continued.

SEC. 38. All causes pending in the several Courts of Baltimore city at the adoption of this Constitution shall be prosecuted to final judgment, as though the jurisdiction of the several Courts in which they may be pending had not been changed.

Clerks.

SEC. 39. There shall be a Clerk of each of the said Court of Baltimore city, who shall be elected by the legal and qualified voters of said city, and shall hold his office for six years from the time of his election, and until his successor is elected and qualified, and be re-eligible thereto, subject to be removed for wilful neglect of duty, or other misdemeanor in office on conviction in a court of law. In case of a vacancy in the office of a Clerk of any of the said Courts, the Judge of the Court of which he was Clerk, shall have the power to appoint a Clerk until the general election for county officers held next thereafter, when a Clerk of said Court shall be elected to serve for six years thereafter.

Term six years,  
re-eligible.

Vacancy.



SEC. 40. The present Clerk of the Superior Court of Baltimore city and of the Court of Common Pleas, and of the Criminal Court of Baltimore, shall continue to act as Clerks of said Courts respectively during the time for which they were severally elected, and until their successors are elected and qualified, and in case of the death, resignation or disqualification of either of said Clerks before the expiration of the time for which they were elected, the Judge of the Court where such death, resignation or other disqualification may occur, shall have the power to appoint a Clerk as provided by the Thirty-ninth Section of this Article. The present Clerk of the Circuit Court of Baltimore city shall continue to act as Clerk of said Court, until the first election for county officers next after the adoption of this Constitution, when a Clerk of said Court shall be elected in the same manner, and hold his office for the same time, and be subject to the same provisions of this Constitution, as the Clerks of the Courts in said city.

*Clerks continued.*

*Vacancy.*

SEC. 41. The General Assembly shall, whenever it may think the same proper and expedient, provide by law another Court for the city of Baltimore, to consist of one Judge, to be elected by the legal and qualified voters of said city, who shall be subject to the same constitutional provisions, hold his office for the same term of years, and receive the same compensation as the Judge of the Superior Court of said city, and said Court shall have such jurisdiction and powers as may be prescribed by law; and the General Assembly may re-apportion the civil jurisdiction among the several Courts in Baltimore city from time to time, as in their judgments the public interest and convenience may require.

*Another Court in Baltimore city.*

1853, ch. 122.  
do. 391.

SEC. 42. The Clerk of the Court of Common Pleas shall have authority to issue within said city, all marriage and other licenses required by law, subject to such provisions as the General Assembly have now or may hereafter prescribe, and the Clerk of the Superior Court of said city, shall receive and record all deeds, conveyances, and other papers which are required by law to be recorded in said

*Civil Jurisdiction of Courts in Baltimore city.*

*Authority of Clerks of Common Pleas and Superior Court.*

city. He shall also have custody of all papers connected with the proceedings on the Law or Equity side of Baltimore County Court, and of the dockets thereof, so far as the same have relation to the city of Baltimore.

#### PART V.—ORPHANS' COURTS.

Orphans' Courts.

SEC. 43. There shall be an Orphans' Court in the city of Baltimore, and in each of the counties of this State. The qualified voters of the city of Baltimore and of the several counties of the State shall, on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-seven, elect three men to be Judges of the Orphans' Court of said city and counties respectively; one of the said Judges first elected shall hold his office for two years, one for four years and the other for six years; and at the first meeting after their election and qualification, or as soon thereafter as practicable, they shall determine by lot which one of their number shall hold his office for two, four and six years, respectively, and thereafter there shall be elected as aforesaid, at each general election for county officers, one Judge to serve for the term of six years. No person shall be elected Judge of the Orphans' Court unless he be at the time of his election a citizen of the United States and resident for twelve months in the city or county for which he may be elected; each of said Judges shall receive such compensation, to be paid by the said counties and city respectively, as is now or may hereafter be prescribed by the General Assembly.

Three Judges  
elected by the  
People.

Rotation in office.

1852, ch. 29, 48, 62,  
73, 139, 247, 290,  
341.  
1853, ch. 81, 147,  
271, 333, 355.

Term six years.

Qualifications.

Compensation.

Vacancy.

SEC. 44. In case of the death, resignation, removal or other disqualification of a Judge of an Orphans' Court, the Governor, by and with the advice and consent of the Senate, shall appoint a person duly qualified to fill said office for the residue of the term thus made vacant.

Jurisdiction.

SEC. 45. The Orphans' Courts shall have all the powers now vested by law in the Orphans' Courts of this State, subject to such changes as the General Assembly may prescribe, and shall have such other jurisdiction as may from time to time be provided by law.

SEC. 46. There shall be a Register of Wills in each county of the State and in the city of Baltimore to be elected by the legal and qualified voters of said counties and city respectively, who shall hold his office for six years from the time of his election, and until his successor is elected and qualified; he shall be re-eligible and subject at all times to removal for wilful neglect of duty or misdemeanor in office in the same manner that the Clerks of Courts are removable. In the event of any vacancy in the office of Register of Wills, said vacancy shall be filled by the Judges of the Orphans' Court in which such vacancy occurs, until the next general election for county officers, when a Register shall be elected to serve for six years thereafter.

Registers of Wills  
elected by the  
people.

14 Md. 40.

Term six years,  
re-eligible.

Vacancy.

#### PART VI.—JUSTICES OF THE PEACE.

SEC. 47. The Governor, by and with the advice and consent of the Senate, shall appoint such number of Justices of the Peace, and the County Commissioners of the several counties, and the Mayor and City Council of Baltimore, shall appoint such number of Constables for the several Election Districts of the Counties and Wards of the city of Baltimore, as are now or may hereafter be prescribed by law; and Justices of the Peace and Constables so appointed, shall be subject to removal by the Judge having criminal jurisdiction in the county or city for incompetency, willful neglect of duty, or misdemeanor in office, on conviction in a court of law. The Justices of the Peace and Constables so appointed and commissioned shall be conservators of the peace, shall hold their office for two years, and shall have such jurisdiction, duties and compensation, subject to such right of appeal in all cases, from the judgment of Justices of the Peace, as hath been heretofore exercised, or shall be hereafter prescribed by law.

Justices of the  
Peace appointed  
by the Governor.

1852, ch. 274.

1853, ch. 102.

1854, ch. 302.

Constables  
appointed by the  
County Commis-  
sioners.

Term two years.

Jurisdiction.

1852, ch. 176, 239.

1853, ch. 201.

1854, ch. 225, 236.

5 Md. 337.

SEC. 48. In the event of a vacancy in the office of a Justice of the Peace, the Governor shall appoint a person to serve as Justice of the Peace for the residue of the term, and in case of a vacancy in the office of Constable, the

Vacancies.

14 Md. 215.

15 Md. 376.

1860, ch. 7.

County Commissioners of the county in which the vacancy occurs, or the Mayor and City Council of Baltimore, as the case may be, shall appoint a person to serve as Constable for the residue of the term.

#### PART VII.—SHERIFFS.

Sheriffs elected by the people.

Term two years, ineligible for two years.

Vacancy.

Coroners, &c.

SEC. 49. There shall be elected in each county, and in the city of Baltimore, in every second year, one person, resident of said county or city, above the age of twenty-five years, and at least five years preceding his election, a citizen of this State, to the office of Sheriff. He shall hold his office for two years and until his successor is duly elected and qualified; shall be ineligible for two years thereafter, shall give such bond, exercise such powers, and perform such duties as now are or may hereafter be fixed by law. In case of a vacancy by death, refusal to serve, or neglect to qualify or give bond, by disqualification or removal from the county or city, the Governor shall appoint a person to be Sheriff for the remainder of the official term.

SEC. 50. Coroners, Elisors and Notaries Public may be appointed for each county and the city of Baltimore, in the manner, for the purposes, and with the powers now fixed or which may hereafter be prescribed by law.

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### ARTICLE V.

#### ATTORNEY GENERAL.

Attorney General elected by the people.

Term four years, re-eligible.

SECTION 1. There shall be an Attorney General elected by the qualified voters of the State, on general ticket, on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-four, and on the same day in every fourth year thereafter, who shall hold his office for four years from the first Monday of January next ensuing his election, and until his successor shall be elected and qualified, and shall be re-eligible

thereto, and shall be subject to removal for incompetency, wilful neglect of duty, or misdemeanor in office, on conviction in a court of law.

SEC. 2. All elections for Attorney General shall be certified to, and returns made thereof by the Clerks of the Circuit Courts for the several counties, and the Clerk of the Superior Court of Baltimore city, to the Governor of the State, whose duty it shall be to decide upon the election and qualifications of the person returned, and in case of a tie between two or more persons to designate which of said persons shall qualify as Attorney General, and to administer the oath of office to the person elected.

Returns to be made to the Governor.

Case of tie.

SEC. 3. It shall be the duty of the Attorney General to prosecute and defend, on the part of the State, all cases which at the time of his election and qualification, and which thereafter may be depending in the Court of Appeals, or in the Supreme Court of the United States, by or against the State, or wherein the State may be interested; and he shall give his opinion in writing, whenever required by the General Assembly, or either branch thereof, the Governor, the Comptroller, the Treasurer, or any State's Attorney on any matter or subject depending before them, or either of them, and when required by the Governor or the General Assembly, he shall aid any State's Attorney in prosecuting any suit or action brought by the State, in any Court of this State; and he shall commence and prosecute or defend any suit or action in any of said Courts, on the part of the State, which the General Assembly or the Governor acting, according to law, shall direct to be commenced, prosecuted or defended, and he shall receive for his services an annual salary of twenty-five hundred dollars; but he shall not be entitled to receive any fees, perquisites or rewards, whatever, in addition to the salary aforesaid, for the performance of any official duty, nor have power to appoint any agent, representative or deputy, under any circumstances whatever.

His Duties.

Give opinions to the Legislature, to the Governor, &c

Prosecute suits.

Salary \$25,000

SEC. 4. No person shall be eligible to the office of Attorney General who has not resided and practiced law

Qualifications.

in this State, for at least seven years next preceding his election.

**Vacancy.**

SEC. 5. In case of vacancy in the office of Attorney General, occasioned by death, resignation, or his removal from the State, or his conviction, as hereinbefore specified, the said vacancy shall be filled by the Governor for the residue of the term thus made vacant.

**Notices of cases to be sent to Attorney General.**

SEC. 6. It shall be the duty of the Clerk of the Court of Appeals, and the Commissioner of the Land Office, respectively, whenever a case shall be brought into said Court or office, in which the State is a party, or has an interest, immediately to notify the Attorney General thereof.

#### THE STATE'S ATTORNEYS.

**The State's Attorneys elected by the people.**

SEC. 7. There shall be an Attorney for the State in each county and the city of Baltimore, to be styled "The State's Attorney," who shall be elected by the voters thereof, respectively, on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-seven, and on the same day every fourth year thereafter, and shall hold his office for four years from the first Monday in January next ensuing his election, and until his successor shall be elected and qualified, and shall be re-eligible thereto, and be subject to removal therefrom for incompetency, wilful neglect of duty or misdemeanor in office, on conviction in a court of law.

**Term four years, re-eligible.**

**Returns to be made to the Governor.**

SEC. 8. All elections for the State's Attorney shall be certified to, and returns made thereof, by the Clerks of the said counties and city to the Judges thereof having criminal jurisdiction, respectively, whose duty it shall be to decide upon the elections and qualifications of the persons returned, and in case of a tie between two or more persons, to designate which of said persons shall qualify as State's Attorney, and to administer the oaths of office to the persons elected.

**Fees, &c.**

SEC. 9. The State's Attorney shall perform such duties and receive such fees and commissions as are now or may be hereafter prescribed by law, and if any State's Attorney

shall receive any other fee or reward than such as is, or may be allowed by law, he shall, on conviction thereof, be removed from office; provided, that the State's Attorney for Baltimore city shall have power to appoint one Deputy, Deputy for Baltimore city. at a salary of not more than fifteen hundred dollars per annum, to be paid by the State's Attorney out of the fees of his office, as has heretofore been practiced.

SEC. 10. No person shall be eligible to the office of State's Attorney who has not been admitted to practice law in this State, and who has not resided for at least one year in the county or city in which he may be elected. Qualifications.

SEC. 11. In case of vacancy in the office of State's Attorney, or of his removal from the county or city in which he shall have been elected, or on his conviction as herein specified, the said vacancy shall be filled by the Judge of the county or city, respectively, having criminal jurisdiction in which said vacancy shall occur, for the residue of the term thus made vacant. Vacancy.

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## ARTICLE VI.

### TREASURY DEPARTMENT.

SECTION 1. The Treasury Department of this State shall consist of a Comptroller and a Treasurer. Treasury Department.

SEC. 2. The Comptroller shall be chosen by the qualified electors of the State, at each regular election for members of the General Assembly. He shall hold his office for two years, commencing on the second Wednesday in January next ensuing his election, and shall receive an annual salary of twenty-five hundred dollars; but shall not be allowed, nor shall he receive any fees, commissions or perquisites of any kind, in addition thereto, for the performance of any official duty or service. He shall keep his office at the seat of government, and shall take such oath, and enter into such bond, for the faithful performance of his duty, as are now or may hereafter be prescribed by law. A vacancy in the office of Comptroller, shall be filled by the Comptroller elected by the people. Salary \$2,500. 4 Md. 189. 1853, ch. 403. 1852, ch. 12. His Office. Vacancy.

Governor for the residue of the term. The first election for Comptroller under this Constitution, shall be held on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-four, but the Comptroller then elected shall not enter upon the discharge of the duties of his office, until the expiration of the term of the present incumbent, unless the said office shall sooner become vacant.

His Duties.  
1853, ch. 82, 86.  
1852, ch. 56 and 65.  
14 Md. 369.  
1841, ch. 23.

SEC. 3. The Comptroller shall have the general superintendence of the fiscal affairs of the State; he shall digest and prepare plans for the improvement and management of the revenue, and for the support of the public credit; prepare and report estimates of the revenue and expenditure of the State; superintend and enforce the collection of all taxes and revenue; adjust, settle and preserve all public accounts; decide on the forms of keeping and stating accounts; grant, under regulations prescribed by law, all warrants for moneys to be paid out of the Treasury, in pursuance of appropriations by law; prescribe the formalities of the transfer of stock or other evidences of the State debt, and countersign the same, without which such evidences shall not be valid; he shall make full reports of all his proceedings, and of the state of the Treasury Department within ten days after the commencement of each session of the General Assembly, and perform such other duties as are now or may hereafter be prescribed by law.

Reports to the  
Legislature.

Treasurer elected  
by the Legislature.

SEC. 4. The Treasurer shall be elected on joint ballot by the two Houses of the General Assembly at each regular session thereof. He shall hold his office for two years, and shall receive an annual salary of twenty-five hundred dollars, but shall not be allowed, nor shall he receive any fees, commissions, or perquisites of any kind in addition thereto, for the performance of any official duty or service. He shall keep his office at the seat of government, and shall take such oath and enter into such bond for the faithful discharge of his duty as are now or may hereafter be prescribed by law. A vacancy in the office of Treasurer shall be filled by the Governor for the residue of the term.

Salary \$2,500.

4 Md. 189.  
1852, ch. 65.  
do. 123.

His Office.

Vacancy.



The General Assembly at its first session after the adoption of this Constitution shall elect a Treasurer, but the Treasurer then elected, shall not enter upon the discharge of the duties of his office until the expiration of the term of the present incumbent, unless the said office shall sooner become vacant.

SEC. 5. The Treasurer shall receive and keep the His Duties. moneys of the State, and disburse the same upon warrants drawn by the Comptroller and not otherwise; he shall take receipts for all moneys paid by him, and all receipts for moneys received by him shall be endorsed upon warrants signed by the Comptroller, without which warrant, so signed, no acknowledgment of money received into the Treasury shall be valid; and upon warrants issued by the Comptroller, he shall make arrangements for the payment of the interest of the public debt, and for the purchase thereof, on account of the sinking fund. Every bond certificate or other evidence of the debt of the State shall be signed by the Treasurer and countersigned by the Comptroller, and no new certificate or other evidence intended to replace another shall be issued until the old one shall be delivered to the Treasurer, and authority executed in due form for the transfer of the same shall be filed in his office, and the transfer accordingly made on the books thereof, and the certificate or other evidence cancelled; but the General Assembly may make provision for the loss of certificates or other evidence of the debt.

SEC. 6. The Treasurer shall render his accounts quarterly to the Comptroller, and on the third day of each regular session of the General Assembly he shall submit to the Senate and House of Delegates fair and accurate copies of all accounts by him from time to time rendered and settled with the Comptroller. He shall at all times submit to the Comptroller the inspection of the moneys in his hands, and perform all other duties that are now or may hereafter be prescribed by law.

Treasurer to render accounts to the Comptroller.

## ARTICLE VII.

## SUNDRY OFFICERS.

Board of Public  
Works.

SECTION 1. The Governor, the Comptroller of the Treasury and the Treasurer shall constitute the Board of Public Works in this State; they shall keep a journal of their proceedings, and shall hold regular sessions in the city of Annapolis on the first Wednesday in January, April, July and October in each year, and oftener if necessary, at which sessions they shall hear and determine such matters as affect the Public Works of the State, and as the General Assembly may confer upon them the power to decide.

Their Sessions.

Their Duties.

SEC. 2. They shall exercise a diligent and faithful supervision of all Public Works in which the State may be interested as stockholder or creditor, and shall appoint the Directors in every Rail Road or Canal Company in which the State has the legal power to appoint Directors, which said Directors shall represent the State in all meetings of the stockholders of every Rail Road or Canal Company in which the State is a stockholder; they shall require the Directors of all said Public Works from time to time, and as often as there shall be any change in the rates of toll on any of said works, to furnish said Board of Public Works a schedule of such modified rates of toll, and shall use all legal powers which they may possess to obtain the establishment of rates of toll which may prevent an injurious competition with each other to the detriment of the interests of the State, and so to adjust them as to promote the agricultural interests of the State; they shall report to the General Assembly at each regular session, and recommend such legislation as they shall deem necessary and requisite to promote or protect the interests of the State in the said Public Works; they shall perform such other duties as may be hereafter prescribed by law; and a majority of them shall be competent to act.

Rates of Toll.

Reports to the  
Legislature.

The Governor, Comptroller and Treasurer, shall receive No Salary.  
no additional salary for services rendered by them as 1852, ch. 122.  
members of the Board of Public Works.

SEC. 3. There shall be a Commissioner of the Land Office, Commissioner of the Land Office.  
elected by the qualified voters of the State, on the Tuesday 1852, ch. 261.  
next after the first Monday in the month of November, in 1853, ch. 415.  
the year eighteen hundred and seventy, and on the same  
day in every sixth year thereafter, who shall hold his office  
for the term of six years from the first Monday in January  
ensuing his election. The returns of said election shall be Returns to be made to the Governor.  
made to the Governor, and in the event of a tie between  
two or more candidates, the Governor shall direct a new  
election to be held by writs to the Sheriffs of the several  
counties, and of the City of Baltimore; who shall hold  
said election after at least twenty days' notice, exclusive of  
the day of election. He shall perform such duties as are His Duties.  
now required of the Commissioner of the Land Office, or  
such as may hereafter be prescribed by law, and shall also  
be the Keeper of the Chancery Records. He shall receive  
a salary of two thousand dollars per annum, to be paid out Salary \$2,000.  
of the Treasury, and shall charge such fees as are now or  
may be hereafter fixed by law. He shall make a semi-  
annual report of all the fees of his office, both as Commis- Reports of Fees.  
sioner of the Land Office and as Keeper of the Chancery  
Records, to the Comptroller of the Treasury, and shall pay  
the same semi-annually into the Treasury. In case of  
vacancy in said office by death, resignation or other cause, Vacancy.  
the Governor shall fill such vacancy until the next general  
election for members of the General Assembly thereafter,  
when a Commissioner of the Land Office shall be elected  
for the full term of six years ensuing.

SEC. 4. The State Librarian shall be elected by a joint State Librarian elected by Legislature.  
vote of the two branches of the General Assembly for  
four years and until his successor shall be elected and  
qualified. His salary shall be fifteen hundred dollars per 5 Md. 423.  
annum, and the General Assembly shall pass no law 1856, ch. 314.  
whereby he shall receive any additional compensation. He  
shall perform such duties as are now or may hereafter be Salary \$1,500.  
His Duties.

Vacancy.

prescribed by law. In case of a vacancy in the office of State Librarian from death, resignation or other cause, the Governor shall fill such vacancy until the next meeting of the General Assembly thereafter, and until a successor be elected and qualified.

County Commissioners elected by the people.

1853, ch. 173, 220, 239, 372.

6 Md. 468.

SEC. 5. The County Commissioners shall be elected, on general ticket, by the qualified voters of the several counties in this State; an election for County Commissioners shall be held on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-five, and as nearly one-half as may be of said Commissioners shall hold their office for two years, and the other half for four years. At the first meeting after their election and qualification, or as soon thereafter as practicable, the said Commissioners shall determine by lot which of their number shall hold office for two and four years respectively; and thereafter there shall be elected as aforesaid, at each general election for county officers, County Commissioners for four years to fill the places of those whose term has expired. The said Commissioners shall exercise such powers and perform such duties (which shall be similar throughout the State) as are now or may hereafter be prescribed by law. Their number in each county, and their compensation, their powers and duties, may at any time hereafter be changed and regulated by the General Assembly.

Term four years.

Their number and compensation.

Road Supervisors.

1852, ch. 300.

Their number and duties.

SEC. 6. The General Assembly shall provide by law for the appointment of Road Supervisors in the several counties by the County Commissioners, and the number of said Supervisors, as well as their powers and duties in the several election districts in the several counties, shall be determined by the said County Commissioners.

County Surveyor elected by the people.

1852, ch. 59.

Term two years.

SEC. 7. The qualified voters of each county and of the city of Baltimore shall on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-five and every two years thereafter, elect a Surveyor for the counties and city of Baltimore respectively, whose term of office shall commence on the first

Monday of January next ensuing their election, and whose duties and compensation shall be the same as are now or may hereafter be prescribed by law. Any vacancy in the office of Surveyor shall be filled by the Commissioners of the counties or by the Mayor and City Council of Baltimore respectively, for the residue of the term.

SEC. 8. The qualified voters of Worcester County shall on the Tuesday next after the first Monday in the month of November, in the year eighteen hundred and sixty-five, and every two years thereafter, elect a Wreck Master for said county, whose duties and compensation shall be the same as are now or may be hereafter prescribed by law; the term of office of said Wreck Master shall commence on the first Monday of January next succeeding his election, and a vacancy in said office shall be filled by the County Commissioners of said county for the residue of the term.

Vacancy.

Wreck-master  
elected in Worcester  
county

Term two years.

Vacancy.

SEC. 9. The General Assembly may provide by law for the election or appointment of such other officers as may be required, and are not herein provided for, and prescribe their tenure of office, powers and duties.

Other Officers.

## ARTICLE VIII.

### EDUCATION.

SECTION 1. The Governor shall, within thirty days after the ratification by the people of this Constitution, appoint, subject to the confirmation of the Senate, at its first session thereafter, a State Superintendent of Public Instruction, who shall hold his office for four years and until his successor shall have been appointed and shall have qualified. He shall receive an annual salary of twenty-five hundred dollars, and such additional sum for travelling and incidental expenses as the General Assembly may by law allow; shall report to the General Assembly within thirty days after the commencement of its first session under this Constitution, a uniform system of Free Public Schools, and

Superintendent of  
Public Instruction.

Term four years.

Salary \$2,500.

Report a system  
of Free Schools.

shall perform such other duties pertaining to his office as may from time to time be prescribed by law.

Board of Education.

SEC. 2. There shall be a State Board of Education, consisting of the Governor, the Lieutenant-Governor, the Speaker of the House of Delegates, and the State Superintendent of Public Instruction, which Board shall perform such duties as the General Assembly may direct.

School Commissioners to be appointed by Board of Education.

SEC. 3. There shall be in each county such number of School Commissioners as the State Superintendent of Public Instruction shall deem necessary, who shall be appointed by the State Board of Education; shall hold office for four years, and shall perform such duties and receive such compensation as the General Assembly or State Superintendent may direct; the School Commissioners of Baltimore city shall remain as at present constituted, and shall be appointed, as at present, by the Mayor and City Council, subject to such alterations and amendments as may be made from time to time by the General Assembly, or the said Mayor and City Council.

Baltimore city excepted.

Uniform system to be provided by the Legislature.

SEC. 4. The General Assembly, at its first session after the adoption of this Constitution, shall provide a uniform system of Free Public Schools, by which a school shall be kept open and supported free of expense for tuition in each school district, for at least six months in each year; and in case of a failure on the part of the General Assembly so to provide, the system reported to it by the State Superintendent of Public Instruction, shall become the system of Free Public Schools of the State; *Provided*, That the report of the State Superintendent shall be in conformity with the provisions of this Constitution, and such system shall be subject to such alterations, conformable to this Article, as the General Assembly may from time to time enact.

Alterations may be made.

Tax of ten cents on \$100.

SEC. 5. The General Assembly shall levy at each regular session after the adoption of this Constitution an annual tax of not less than ten cents on each one hundred dollars of taxable property throughout the State, for the support of the Free Public Schools, which tax shall be collected at

the same time and by the same agents as the general State levy; and shall be paid into the Treasury of the State, and shall be distributed under such regulations as may be prescribed by law, among the counties and the city of Baltimore, in proportion to their respective population between the ages of five and twenty years: *Provided*, That the General Assembly shall not levy any additional school tax upon particular counties, unless such county express by popular vote its desire for such tax; the city of Baltimore shall provide for its additional school tax as at present, or as may hereafter be provided by the General Assembly, or by the Mayor and City Council of Baltimore.

To be distributed  
by law.

Proviso for Particular Counties.

City of Baltimore  
excepted.

SEC. 6. The General Assembly shall further provide by law, at its first session after the adoption of this Constitution, a fund for the support of the Free Public Schools of the State, by the imposition of an annual tax of not less than five cents on each one hundred dollars of taxable property throughout the State, the proceeds of which tax shall be known as the Public School Fund, and shall be invested by the Treasurer, together with its annual interest, until such time as said fund shall, by its own increase and any additions which may be made to it from time to time, together with the present school fund, amount to six millions of dollars, when the tax of ten cents in the hundred dollars, authorized by the preceding section, may be discontinued in whole or in part, as the General Assembly may direct; the principal fund of six millions hereby provided, shall remain forever inviolate as the Free Public School fund of the State, and the annual interest of said school fund shall be disbursed for educational purposes only, as may be prescribed by law.

School Fund of Six  
Millions to be accumulated.

## ARTICLE IX.

## MILITIA AND MILITARY AFFAIRS.

Age from 18 to 45  
years.

Religious scruples  
respected.

Militia Laws to be  
adopted by the  
Legislature.  
1853, ch. 343.

Adjutant General  
appointed by Gov-  
ernor.

2 Md. 341.

SECTION 1. The Militia shall be composed of all able-bodied male citizens, residents of this State, being eighteen years of age, and under the age of forty-five years, who shall be enrolled in the militia, and perform military duty in such manner, not incompatible with the Constitution and laws of the United States, as may be prescribed by the General Assembly of Maryland, but persons whose religious opinions and conscientious scruples forbid them to bear arms, shall be relieved from doing so on producing to the proper authorities satisfactory proof that they are thus conscientious.

SEC. 2. The General Assembly shall provide at its first session after the adoption of this Constitution, and from time to time thereafter, as the exigency may require, for organizing, equipping and disciplining the militia in such manner, not incompatible with the laws of the United States, as shall be most effective to repel invasion and suppress insurrection, and shall pass such laws as shall promote the formation of Volunteer Militia Associations in the city of Baltimore and in every county, and to secure them such privileges or assistance as may afford them effectual encouragement.

SEC. 3. There shall be an Adjutant General, who shall be appointed by the Governor, by and with the advice and consent of the Senate. He shall hold his office at the pleasure of the Governor; shall perform such duties, and shall receive such compensation or emoluments as are now or may be hereafter fixed by law.



## ARTICLE X.

## COUNTIES AND TOWNSHIPS.

SECTION 1. The General Assembly may provide for organizing new counties, locating and removing county seats and changing county lines, but no new county shall be organized without the consent of a majority of the legal voters residing within the limits about to form said county, nor shall the lines of any county be changed without the consent of a majority of the legal voters residing within the limits of the lines proposed to be changed, nor shall any new county contain less than four hundred square miles nor less than ten thousand white inhabitants, nor shall any county be reduced below that amount of square miles, nor below that number of white inhabitants.

New Counties  
may be organized  
by the Legislature.  
1 Md. 139.  
15 Md. 533.

Provisoes.

SEC. 2. The General Assembly shall provide by general law for dividing the counties into townships or permanent municipal corporations in place of the existing election districts, prescribing their limits and confiding to them all powers necessary for the management of their public local concerns; and whenever the organization of these township corporations shall be perfected, all officers provided for in this Constitution, but whose official functions shall have been superseded by such organizations, shall be dispensed with, and the affairs of such townships and of the counties as affected by the action of such townships shall be transacted in such manner as the General Assembly shall direct.

Townships in  
place of Elect  
Districts.

## ARTICLE XI.

## AMENDMENTS OF THE CONSTITUTION.

SECTION 1. The General Assembly may propose any amendment or amendments to this Constitution which shall be agreed to by three-fifths of all the members elected to both Houses. Such proposed amendment or amendments with the yeas and nays thereon, shall be entered on the Journal of each House; shall be printed with the laws passed at the same session, and shall be published by order

Legislature may  
propose amend-  
ments—to be pub-  
lished before next  
election—to be  
submitted to the  
people.

Governor to proclaim amendments if adopted.

Each amendment to be voted on separately.

Legislature may call Convention if approved by the people.

Vote on Convention every twenty years.  
1868, ch. 255.

No amendment without the consent of the people.

of the Governor, in all the newspapers printed in the different counties of this State, and in three newspapers printed in the city of Baltimore, (one of which shall be printed in the German language,) for at least three months preceding the next election for members of the General Assembly, at which election the said proposed amendment or amendments shall be submitted to the qualified electors of the State for their confirmation or rejection; and if it shall appear to the satisfaction of the Governor, from the returns of the said election made to him by the proper authorities, that a majority of the qualified votes cast at said election on the proposed amendment or amendments, were in favor of the said proposed amendment or amendments, he shall, by proclamation, declare said amendment or amendments to be part of the Constitution of this State. When two or more amendments shall be submitted by the General Assembly to the qualified electors of the State at the same election, they shall be so submitted that the electors may vote for or against each amendment separately.

SEC. 2. Whenever two-thirds of the members elected to each branch of the General Assembly shall think it necessary to call a Convention to revise, amend or change this Constitution, they shall recommend to the electors to vote at the next election for members of the General Assembly for or against a Convention; and if a majority of all the electors voting at said election shall have voted for a Convention, the General Assembly shall, at their next session, provide by law for calling the same.

The Convention shall consist of as many members as both Houses of the General Assembly, who shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

SEC. 3. At the general election to be held in the year one thousand eight hundred and eighty-two, and in each twentieth year thereafter, the question "Shall there be a Convention to revise, alter or amend the Constitution?" shall be submitted to the electors of the State; and in case a majority of all the electors voting at such election shall decide in favor of a Convention, the General Assembly at its next session shall provide by law for the election of Delegates and the assembling of such Convention, as is provided in the preceding section; but no amendment of this Constitution agreed upon by any Convention assem-

bled in pursuance of this Article shall take effect until the same shall have been submitted to the electors of the State, and adopted by a majority of those voting thereon.

## ARTICLE XII.

### SCHEDULE.

SECTION 1. Every person holding any office created by or existing under the Constitution or laws of the State, the entire amount of whose pay or compensation received for the discharge of his official duties shall exceed the yearly sum of three thousand dollars, except wherein otherwise provided by this Constitution, shall keep a book in which shall be entered every sum or sums of money received by him or on his account as a payment or compensation for his performance of official duties, a copy of which entries in said book, verified by the oath of the officer by whom it is directed to be kept, shall be returned yearly to the Comptroller of the State for his inspection, and that of the General Assembly of the State, and each of the said officers, when the amount received by him for the year shall exceed three thousand dollars, shall yearly pay over to the Treasurer of the State, the amount of such excess by him received, subject to such disposition thereof, as the General Assembly may direct; any such officer failing to comply with this requisition, shall be deemed to have vacated his office and be subject to suit by the State for the amount that ought to be paid into the Treasury.

Returns to be  
made of fees of  
Officers over  
\$5,000.  
1853, ch. 444.  
1854, ch. 196.

Excess to be paid  
over to Treasurer.

SEC. 2. The several Courts, except as herein otherwise provided, shall continue with like powers and jurisdiction, both at law and in equity, as if this Constitution had not been adopted, and until the organization of the Judicial Department provided by this Constitution.

Courts to continue  
until Judiciary  
organized.

SEC. 3. If at any election directed by this Constitution, any two or more candidates shall have the highest and an equal number of votes, a new election shall be ordered, except in cases specially provided for by this Constitution.

Cases of tie.  
1854, ch. 26.

SEC. 4. In the trial of all criminal cases, the jury shall be the judges of law as well as fact.

Jury judges of law  
and fact.  
12 Md. 236.

Trial by Jury.

SEC. 5. The trial by jury of all issues of fact in civil proceedings in the several courts of law in this State, where the amount in controversy exceeds the sum of five dollars, shall be inviolably preserved.

All Officers continued until successors qualify.

SEC. 6. All officers, civil and military, now holding office, whether by election or appointment under the State, shall continue to hold and exercise their offices, according to their present tenure, unless otherwise provided in this Constitution, until they shall be superseded pursuant to its provisions, and until their successors be duly qualified, and the compensation of such officers which has been increased by this Constitution, shall take effect from the first day of January, eighteen hundred and sixty-five.

Increased compensation.

Time of Elections in November annually.

1852, ch. 183.  
1853, ch. 134.

SEC. 7. General elections shall be held throughout the State on the Tuesday next after the first Monday in the month of November of each and every year; at the election held in the year eighteen hundred and sixty-four, all State officers required to be elected under this Constitution during that year shall be elected, and in like manner in every second year thereafter an election shall be held for those State officers whose terms are about to expire; at the election held in the year eighteen hundred and sixty-five, all county officers required to be elected under this Constitution in that year shall be elected, and in like manner in every second year thereafter, an election shall be held for those county officers whose terms are about to expire; *Provided*, however, the Judges of the several Courts of this State, except the Judges of the Orphans' Courts, shall be elected at the regular election, whether for State or county officers, as the case may be, immediately preceding the expiration of the term of the incumbent whose place is to be filled.

#### VOTE ON THE CONSTITUTION.

Sheriffs to give notice of vote on Constitution.

SEC. 8. For the purpose of ascertaining the sense of the people of this State in regard to the adoption or rejection of this Constitution the Governor shall issue his proclamation within five days after the adjournment of this Convention, directed to the Sheriff of the city of Baltimore, and to the Sheriffs of the several counties of this State, commanding them to give notice, in the manner now prescribed by law, that an election will be held in the city of Baltimore

on the twelfth day of October, in the year eighteen hundred and sixty-four, and in the several counties of this State on the twelfth and thirteenth days of October, in the same year, at the usual places of holding elections in said city and counties, for the adoption or rejection of this Constitution, which election shall be held in the said city of Baltimore on the twelfth day of October, eighteen hundred and sixty-four, between the hours of eight o'clock A. M. and five o'clock P. M., and in the said several counties of this State on the said twelfth and thirteenth days of October, eighteen hundred and sixty-four, between the hours of eight o'clock A. M. and five o'clock P. M., and the Judges of Election of said city, and of the several counties of the State, shall receive at said election the votes only of such electors as are qualified according to the provisions of this Constitution, who may offer to vote at such election, and the said Sheriffs shall also give notice on or after the twelfth day of October, eighteen hundred and sixty-four, for all elections provided for by this Constitution, to be held during that year.

To be held in  
October, 1864.

SEC. 9. At the said election the vote shall be by ballot, and each ballot shall describe thereon the words "For the Constitution" or "Against the Constitution," as the voter may elect, and it shall be conducted in all respects as the general elections of this State are now conducted. The Judges of Election shall administer to every person offering to vote the oath or affirmation prescribed by this Constitution, and should any person offering to vote refuse or decline to take said oath, he shall not be permitted to vote at such election, but the taking of such oath or affirmation shall not be deemed conclusive evidence of the right of such person to vote, and it shall be the duty of the Return Judges of said city, and of the several counties of the State, having counted the votes given for or against the adoption of this Constitution, to certify the result thereof in the manner now prescribed by law, accompanied with a special statement, that every person who has voted has taken the oath or affirmation prescribed by this Constitution; and the Governor upon receiving such result, and ascertaining the aggregate vote throughout the State, including the soldiers' vote, hereinafter provided for, shall, by his proclamation make known the same, and if a majority of the votes cast shall be for the adoption of this Consti-

Mode of Voting.

Oath of Voter.

Returns to be  
made.

Governor to pro-  
claim the vote.

To take effect on first day of November, 1864.

Certain votes to be excluded.

tution, it shall go into effect on the first day of November, eighteen hundred and sixty-four.

SEC. 10. And the Governor shall exclude from count the votes of any county or city the Return Judges of which shall fail to certify in the returns, as provided by this schedule, that all persons who have voted have taken the oath prescribed to be taken, unless the Governor shall be satisfied that such oath was actually administered, and that the failure to make the certificate has been from inadvertence or mistake.

#### SOLDIERS' VOTE.

Voters absent in Military service may vote.

A poll to be opened in each Company.

Time of voting.

Officers to act as Judges.

SEC. 11. Any qualified voter of this State who shall be absent from the county or city of his residence by reason of being in the military service of the United States, so as not to be able to vote at home, on the adoption or rejection of this Constitution, or for all State officers elected on general ticket, and for Presidential Electors and for members of Congress, at the election to be held on the Tuesday next after the first Monday in the month of November, eighteen hundred and sixty-four, shall be entitled to vote at such elections as follows: A poll shall be opened in each Company of every Maryland Regiment in the service of the United States or of this State on the day appointed by this Convention for taking the vote on the New Constitution, or some other day not more than five days thereafter, at the quarters of the commanding officer thereof, and voters of this State belonging to such Company who shall be within ten miles of such quarters on the day of election may vote at such poll; the polls shall be opened at eight o'clock A. M. and close at six o'clock P. M.; the commissioned officers of such Company, or such of them as are present at the opening of the polls, shall act as Judges, and any one officer shall be competent so to act, and if no officer be present then the voters in such Company present shall elect two of the voters present to act as Judges of the election; before any votes are received each of the Judges shall take an oath or affirmation that he will perform the duties of Judge according to law; will prevent fraud and observe and make proper return thereof, and such oath the Judges may administer to each other; the election shall be by ballot, and any

voter may vote either "For the Constitution" or "Against the Constitution."

SEC. 12. Any qualified voter of this State who shall be absent from the city or county of his residence on the day for taking the vote on the adoption or rejection of this Constitution by reason of his being in the military service of the United States, but shall be at some hospital or military post, or on duty within the State, and not with his company, may vote at the nearest polls to such place on satisfying the Judges that he is a legal and qualified voter of this State. Votes at Hospitals.

SEC. 13. The Judges may swear any one offering to vote as to his being a legal voter of this State. The Judges shall take down on a poll-book or list the names of all the voters as their votes are taken, and the tickets shall be placed in a box as taken; after the polls are closed, the tickets shall be counted and strung on a thread, and the Judges shall make out a certificate which they shall sign, addressed to the Governor at Annapolis, in which they shall state they have taken the oath hereby prescribed, and shall certify the number of votes taken and the number of votes for the Constitution, and against the Constitution; the said certificates shall be accompanied with the names of the voters, and shall be plainly expressed, but no particular words shall be required. Judges may swear voters.  
Mode of voting.  
Returns and Certificates.

SEC. 14. The Judges shall, as soon as possible, transmit said returns, with the tickets so strung, to the Governor, who shall receive the return of the soldiers' vote, and shall cast up the same and judge of the genuineness and correctness of the returns, and may recount the threaded tickets so as to satisfy himself, and the Governor shall count said vote with the aggregate vote of the State on the adoption or rejection of this Constitution, and shall wait for fifteen days after the day on which the State vote is taken, so as to allow the returns of the soldiers' vote to be made before the result of the whole vote is announced. The Governor shall receive the returns of the soldiers' vote on said election for State officers, Presidential Electors and Members of Congress, and shall count the same with the aggregate home vote, on State officers, and the aggregate home vote in each district respectively for Members of Congress. Governor to judge of vote on Constitution, to wait fifteen days.  
Governor to receive returns as other elections.

Governor to make  
known provisions  
for Soldiers' vote.

SEC. 15. The Governor shall make known to the officers of the State Regiments the provisions of this Article of the Schedule, and request them to exercise the rights hereby conferred upon them, and shall take all means proper to secure the soldiers' vote; and the General Assembly, at its first session after the adoption of this Constitution shall make proper appropriation to pay any expense that may arise herein.

Soldiers' vote at all  
elections.

SEC. 16. If this Constitution shall be adopted by the people, the provisions contained herein for taking the soldiers' vote on the adoption of the Constitution shall apply to all elections to be held in this State until the General Assembly shall provide some other mode of taking the same.

When done.

*Done in Convention, the sixth day of September, in the year of our Lord one thousand eight hundred and sixty-four, and of the Independence of the United States the eighty-ninth.*

HENRY H. GOLDSBOROUGH,

*President of the Convention.*

Attest—W. R. COLE,

*Secretary.*

STATE OF MARYLAND, *Sct.:*

*I, GEORGE EARLE, Clerk of the Court of Appeals of Maryland, do hereby certify that this Constitution was, on this sixth day of September, in the year of our Lord one thousand eight hundred and sixty-four, filed in this office.*

*Witness my hand:*

GEORGE EARLE,

*Clerk of the Court of Appeals.*



## APPENDIX.

I APPEND to this Edition of the Declaration of Rights and the Constitution of the State of Maryland, a brief Commentary shewing some of the principal changes which have been made in them. This labor has been undertaken with the hope of rendering this Edition more useful to the People, by noting those changes particularly, and thus giving at a glance a short history of their Form of Government. It enlightens them as to their rights and duties, and inspires them with a proper zeal to defend the one and fulfil the other.

An investigation into the causes of them, is necessary to a perfect understanding of those changes; but I have not here space for such a work. Those who wish to look more deeply into the matter, are referred to the Histories of the State and to the Debates in the Constitutional Conventions.

### THE DECLARATION OF RIGHTS.

This Declaration, consisting principally of immutable principles of government, has not been much altered.

The most important changes are the insertion of articles abolishing slavery, and declaring paramount allegiance to the Constitution and Government of the United States.

ARTICLE 1. Is entirely new.

In ART. 2, the words "according to the mode prescribed in this Constitution," which were inserted in 1851, have been omitted,—leaving the declaration of the right of the people, at all times, to alter their form of government, "in such manner as they may deem expedient," entirely unrestricted as to the mode of its exercise.

ART. 5. Is entirely new.

ART. 7. Remains as in 1851. The right of suffrage was formerly restricted to those having property.

In ART. 15, the words "on persons or property" with reference to the imposition of taxes which were inserted in 1851, have been omitted.

ART. 22. Has limited the declaration against compulsory evidence to criminal cases, in order to conform to the law as it now stands in the Code, by which any party may in any civil case be compelled in a Court of Common Law, as well as in Equity, to give evidence against himself.

ART. 23. Omits the word "free," obviously to conform to the change made by the insertion of Article 24, which is entirely new. The proviso also about the colored population which was inserted in 1851, is omitted.

ART. 27. Is changed so as to allow forfeiture of estate for treason, which it would seem was not heretofore allowable in this State for any cause.

ART. 31. Changes the phraseology in regard to quartering soldiers in time of war, providing that the manner shall be "prescribed by law," the words before being "as the Legislature may direct."

In ART. 37, is inserted a test oath of allegiance, both to this State and to the United States, and a change is made by omitting the word Jews, and allowing all persons, without distinction, to make a declaration of belief either in the Christian Religion, or in the existence of God, and in a future state of rewards and punishments.

ART. 38. Provides for the *prior or subsequent* sanction of the Legislature to gifts or devises for religious purposes. Article 37 of the Declaration of Rights as numbered in 1851, providing for the rights of the city of Annapolis, is entirely omitted.

ART. 40. Adds to the provision for the liberty of the press, a clause about responsibility for the abuse of it.

ART. 43. In addition to the subjects heretofore embraced in the declaration of the duties of the Legislature, provides for "the extension of a judicious system of general education.

ART. 45 Is changed so as to conform to the change made in Article 2, by restricting the *Legislature* only from changing the Constitution, except in the manner therein prescribed,—thus leaving the inalienable right of the *People*, at all times, to alter their form of government, in such manner as they may deem expedient, entirely unrestricted by any attempt to fetter it.

## THE CONSTITUTION.

A great number of changes have been made in the Constitution, the principal of which are in relation to, the Elective Franchise; the Representation in the Legislature, and restrictions on its powers; the Tenure of Office and increase in the Judiciary; and the establishment of a system for Public Education.

### ARTICLE I.—ELECTIVE FRANCHISE.

SECTION 2. Provides for a uniform registration of the names of voters in this State, and for taking the votes of soldiers.

SEC. 4. Provides for voters an oath of allegiance to the United States, and also of not having committed acts of hostility against it; but the taking of such oath is not conclusive evidence of the right of such person to vote.

SEC. 5. In relation to bribery contains, in addition to the former provision, a clause disfranchising a person guilty of fraud in procuring himself or any other person to be nominated to any office.

SEC. 7. Adds to the former oath of office a clause, that the person has never, by word, act or deed, aided or encouraged the rebellion.

### ARTICLE II.—EXECUTIVE DEPARTMENT.

The provision for dividing the State into three Gubernatorial Districts, is omitted.

SECTION 6. Provides for a Lieutenant Governor, to be elected in the same manner as the Governor.

SEC. 7. Makes the Lieutenant Governor, President of the Senate.

SEC. 22. Increases the Governor's salary from \$3,600 to \$4,000.

Several important changes which had been made in the Executive Department, by the Constitution of 1851, are retained in this Article.

The term of office of the Governor had been enlarged from three to four years.

By this change the expiration of it is made to coincide with that of every second term of the Delegates, they being elected biennially, in which respect, there is a similarity between the Constitution of this State and of the United States.

The restriction of the pardoning power is retained.

The election of nearly all the principal officers of the Government, including the Judges, by the People, which was provided by the Constitution of 1851, is continued, thus greatly abridging the appointing power of the Governor.

### ARTICLE III —LEGISLATIVE DEPARTMENT.

SECTION 2. Provides for the division of the city of Baltimore, into three Legislative Districts.

SEC. 3 Gives three Senators to Baltimore city,—it having been heretofore entitled to one. The term of office remains four years as in the Constitution of 1851. Theretofore, it was six years.

SEC. 4. Gives Baltimore city 18 members.

In 1851,—for the first time, the principle of representation according to population, was adopted; but Baltimore city was restricted to four more than the largest county, by which rule, it was entitled to 10 members.

The principle of representation according to population is, by this section, again applied by a peculiar and artificial rule, limiting the larger counties and the city of Baltimore; but giving as a result, a larger representation than heretofore to that city.

Another important change is made by this section.

Before 1851, the basis of representation was the same as in the United States, that is, it embraced three-fifths of the colored population.

In 1851,—the whole population was the basis.

The white population is now made the exclusive basis of representation in the House of Delegates.

SEC. 5. The biennial election of the Delegates remains as in 1851. Herein, the Constitution of Maryland agrees with that of the United States. But the sessions of the Legislature in Maryland are biennial, and not annual as those of Congress.

SEC. 6. Changes the time of elections from the first Wednesday to the Tuesday next after the first Monday in November, and the same change is made as to the Governor, in Article II, Section 2, so that now the President of the United States and our Governor, and half of the Senators, and every second House of Delegates, are elected on the same day.

SEC. 7. Senators formerly held office for six years, one-third going out every two years. In 1851, their term was limited to four years, and so it now remains.

SEC. 10. The provision making Ministers of the Gospel ineligible, is omitted.

SEC. 14. The regular sessions of the Legislature heretofore closed on the 10th of March, now they are unlimited; but no member can receive more than \$400. Special sessions are limited to 30 days. The per diem is \$5.00 at all sessions, heretofore, it was \$400.

SEC. 26. Provides that no bill shall originate during the last ten days of the session: it was heretofore, three days.

SEC. 28. Continues the very useful provisions adopted for the first time in 1851, requiring laws when amended, to be put in form as they would read when amended. And the Code heretofore published is required to be kept up, arranged in articles and sections.

SEC. 30. The time when laws take effect, is 1st June next after the session at which they are passed, as heretofore; but it is now further provided, that if that time be changed, then they shall be immediately published.

SEC. 32. Is almost entirely new. It provides that the Legislature shall not pass local or special laws in several enumerated cases,—and that provision should be made for all such cases by general laws. The effect of this provision will be to relieve the statute books of a great mass of laws of mere private or local interest, with which they are now incumbered, and to leave more time to the Legislature for matters of public and general interest.

SEC. 41. Relates to the Registration of voters and to disfranchising certain persons.

SEC. 45. Empowers the Legislature to receive from the United States, a grant of land.

SEC. 47. Provides that the Legislature shall pass laws requiring certain persons to take the oath of allegiance.

SEC. 48. Empowers the Legislature to accept the cession of certain contiguous territory, and for its division into counties, its representation in the Legislature, the creation of Courts, and the extension of the Constitution and laws of the State over it.

SEC. 49. Directs the Legislature to provide by law for the registration of births, marriages and deaths, and for marriages by Judges, &c.

SEC. 52. Authorizes the sale or exchange of the State's interest in certain works of public improvement, on the terms therein particularly prescribed.

SEC. 53. Provides for the purchase of the State's interest in Chesapeake and Ohio Canal, by the counties of Allegany, Washington, Frederick and Montgomery.

## ARTICLE IV.—JUDICIARY DEPARTMENT.

SECTION 3. Provides that the Judges of the Court of Appeals shall be elected by the voters of the whole State: heretofore, each Judge of that Court was elected by the voters of his own District. Before 1851, the tenure of office of all Judges was for life,—it was then changed to a term of 10 years, now it is enlarged to 15 years.

SEC. 8. Authorizes the parties to have a cause tried without a Jury.

SEC. 12. Punishes the detention of emancipated slaves with fine and imprisonment, and directs their discharge on Habeas Corpus.

SEC. 17. The Court of Appeals is enlarged from four to five Judges, and the present Judges are continued.

SEC. 18. The sessions of the Court of Appeals are to be on first Mondays of April, October, or at such other time as the Legislature may direct.

SEC. 19. Provides that the jurisdiction of the Court of Appeals, instead of being exclusively appellate, as heretofore, shall be such as now is or may hereafter be prescribed for it by law. Its sessions are to continue ten months, if required.

SEC. 20. Require three Judges to concur in a decision, and the opinion in writing to be filed within three months.

SEC. 21. Increases the salaries of the Judges of the Court of Appeals from \$2,500 to \$3,000.

SEC. 22. Prescribes that provision shall be made for publishing reports of such cases in the Court of Appeals, as the Justices think proper.

SEC. 24. Divides the State into 13 Judicial Circuits, instead of 8, as heretofore.

SEC. 25. One Court is to be held in each county.

SEC. 26. For each Circuit one Judge is provided, who shall reside therein, and the terms of Court are required to be not less than two in each year, in each county, and the Judges are allowed to hold special terms at their discretion.

SEC. 27. The present Judges are continued in office, and assigned to their several circuits.

SEC. 28. Increases the salaries of the Judges of the Circuit Courts from \$2,000 to \$2,500.

SEC. 30. The Judges of the Circuit Courts and of the Courts in Baltimore city, are required to render their decisions within two months.

SEC. 31. The four Courts in Baltimore city are continued with one Judge for each.

SEC. 32. Each Judge of the Baltimore City Courts, has a salary of \$3,000.

SEC. 33. The Jurisdiction of the Superior Court is changed from cases over \$500, to cases over \$1,000, only, and it has jurisdiction in appeals from the Commissioners for opening streets.

SEC. 34. The Jurisdiction of the Court of Common Pleas extends to \$1,000, instead of to \$700 only, as heretofore.

SEC. 35. Takes away the jurisdiction of the Circuit Court for Baltimore city, in Habeas Corpus in Criminal cases.

SEC. 36. Defines the jurisdiction of the Criminal Court of Baltimore city.

SEC. 37. Continues the present Judges of the Baltimore city Courts in office.

SEC. 41. Authorizes the providing of another Court for Baltimore city, to consist of one Judge, and authorizes the reapportionment of the civil jurisdictions of the Courts in Baltimore city, from time to time.

SEC. 43. Provides that one of the three Judges of the Orphans' Court, shall go out of office every two years. Heretofore, they all went out together.

SEC. 47. The Justices of the Peace are now appointed by the Governor, and the Constables, by the County Commissioners and Mayor and City Council—for two years. These officers were formerly elected by the people.

SEC. 49. Instead of the election of two Sheriffs, as heretofore, the one of whom was to serve only in case of death, &c. of the other,—one is now to be elected and the Governor appoints in case of vacancy.

## ARTICLE V.—ATTORNEY GENERAL.

By this Article, the office of Attorney General of the State, which was abolished in 1851, is reestablished.

## ARTICLE VI.—TREASURY DEPARTMENT.

There is some change of phraseology in this Article, but not any material change.

## ARTICLE VII.—SUNDRY OFFICERS.

SECTION 1. Constitutes the Governor, the Comptroller and the Treasurer, the Board of Public Works. Heretofore, a Board of four Commissioners was elected by the people.

SEC. 2. Provides that these officers shall receive no additional salary as members of the Board of Public Works.

SEC. 3. Gives a salary of \$2,000 to the Commissioner of the Land Office, and requires him to pay over all fees to the Treasurer.

SEC. 4. Increases the salary of the State Librarian, from \$1,000 to \$1,500.

SEC. 5. The County Commissioners hold office for four years instead of for two years, as heretofore, and one-half of them go out of office biennially.

SEC. 6. The Road Supervisors are to be appointed by the County Commissioners, instead of elected by the people, as heretofore.

## ARTICLE VIII.—EDUCATION.

This Article is entirely new.

SECTION 1. Authorizes the appointment of a State Superintendent of Public Instruction, at a salary of \$2,500.

SEC. 2. The Governor, Lieutenant Governor, Speaker of the House and State Superintendent, constitute the State Board of Education.

SEC. 3. The School Commissioners in the counties are appointed by the State Superintendent, and hold office for four years; but Baltimore city is excepted.

SEC. 4. The Legislature is required to provide a uniform system of Free Public Schools.

SEC. 5. An annual tax of ten cents on the hundred dollars is prescribed.

SEC. 6. A School Fund of Six Millions is to be accumulated.

## ARTICLE IX.—MILITIA AND MILITARY AFFAIRS.

SECTION 1. Defines who constitute the Militia, viz: citizens between 18 and 45 years of age.

SEC. 2. Omits the provision authorizing companies, battalions and regiments, to elect their several officers.

## ARTICLE X.—COUNTIES AND TOWNSHIPS.

SECTION 1. Provides for the organization of New Counties.

SEC. 2. Provides for Townships in the place of Election Districts, and for their organization as permanent corporations.

## ARTICLE XI.—AMENDMENTS.

This Article provides three modes of Amendment.

SECTION 1. Authorizes 3-5 of both houses of the Legislature to propose amendments to the people.

SEC. 2. Authorizes the Legislature upon vote of  $\frac{2}{3}$  of each House, to call a Convention.

SEC. 3. Provides that in 1882, at in every 20th year thereafter, the question of a Convention shall be put to the people.

#### ARTICLE XII.—SCHEDULE.

This Article contains miscellaneous provision, some of which were in the Constitution of 1851, under the head of 'Miscellaneous.'

The vote on this Constitution, is particularly provided for.

Provision is also made for the Soldiers' vote, not only on this Constitution, but at all elections hereafter.

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#### CONCLUSION.

The Legislature is directed by this Constitution to pass laws on several particular subjects, in order to carry out its provisions, and to conform the laws to the changes made.

The author of these brief notes hopes that they may be useful to those, who having duties to fulfil, or rights to maintain under this Form of Government, wish to know them.

EDWARD OTIS HINKLEY.

BALTIMORE, Dec. 9, 1864.

# INDEX.

NOTE.—In this Index those Articles to which no Section is added, are in the Declaration of Rights; the Articles in the Constitution being followed by their Sections.

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